

## § 47.120

specified in this paragraph, including full Federal funding.

### § 47.120 Solicitation notice and proposal procedures.

Each fiscal year the Administrator shall publish a solicitation for environmental education grant proposals. The solicitation notice shall prescribe the information to be included in the proposal and other information sufficient to permit EPA to assess the project.

### § 47.125 Eligible and priority projects and activities.

(a) Activities eligible for funding shall include, but not be limited to, environmental education and training programs for:

(1) Design, demonstration, or dissemination of environmental curricula, including development of educational tools and materials;

(2) Design and demonstration of field methods, practices, and techniques, including assessment of environmental and ecological conditions and analysis of environmental pollution problems;

(3) Projects to understand and assess a specific environmental issue or a specific environmental problem;

(4) Provision of training or related education for teachers, faculty, or related personnel in a specific geographic area or region; and

(5) Design and demonstration of projects to foster international cooperation in addressing environmental issues and problems involving the United States and Canada or Mexico.

(b) EPA shall give priority to those proposals which will develop:

(1) A new or significantly improved environmental education practice, method, or technique;

(2) An environmental education practice, method, or technique which may have wide application;

(3) An environmental education practice, method, or technique which addresses a skill or scientific field identified as a priority in the report which will be developed within two years of enactment pursuant to section 9(d) of the Act; and

(4) An environmental education practice, method, or technique which addresses an environmental issue which,

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in the judgment of EPA, is of a high priority.

### § 47.130 Performance of grant.

(a) Each project shall be performed by the recipient, or by a person satisfactory to the recipient and to the EPA. Workplans shall accompany all applications, shall identify who will be performing activities, and shall be approved by EPA prior to funding.

(b) Budget periods normally will not exceed one year. Project periods may be longer, and additional funding may be awarded for continuations.

(c) Procurement procedures, which are found in 40 CFR part 33 for all recipients other than State and local governments. Procurement procedures for State and local governments are described in 40 CFR part 31. These procedures include provisions for small purchase procedures.

### § 47.135 Disputes.

Disputes arising under these grants shall be governed by 40 CFR 30.1200 for recipients other than State and local governments and 40 CFR 31.70 for State and local governments.

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- 49.9867 EPA-approved Tribal rules and plans. [Reserved]
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- 49.9894 Source surveillance. [Reserved]
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**IMPLEMENTATION PLAN FOR THE COEUR D'ALENE TRIBE OF THE COEUR D'ALENE RESERVATION, IDAHO**

- 49.9921 Identification of plan.
- 49.9922 Approval status.
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- 49.9927 EPA-approved Tribal rules and plans. [Reserved]
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**IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION, WASHINGTON**

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**IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE COOS, LOWER UMPQUA AND SIUSLAW INDIANS OF OREGON**

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- 49.9986 Contents of implementation plan.
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- 49.9988 Permits to construct.
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**IMPLEMENTATION PLAN FOR THE COQUILLE TRIBE OF OREGON**

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- 49.10017 EPA-approved Tribal rules and plans. [Reserved]
- 49.10018 Permits to construct.
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- 49.10020 Federally-promulgated regulations and Federal implementation plans.
- 49.10021–49.10040 [Reserved]

**IMPLEMENTATION PLAN FOR THE COW CREEK BAND OF UMPQUA INDIANS OF OREGON**

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- 49.10042 Approval status.
- 49.10043 Legal authority. [Reserved]
- 49.10044 Source surveillance. [Reserved]
- 49.10045 Classification of regions for episode plans.
- 49.10046 Contents of implementation plan.
- 49.10047 EPA-approved Tribal rules and plans. [Reserved]
- 49.10048 Permits to construct.
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**IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON**

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- 49.10103 Legal authority. [Reserved]
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- 49.10106 Contents of implementation plan.
- 49.10107 EPA-approved Tribal rules and plans. [Reserved]
- 49.10108 Permits to construct.
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- 49.10111–49.10130 [Reserved]

**IMPLEMENTATION PLAN FOR THE HOH INDIAN TRIBE OF THE HOH INDIAN RESERVATION, WASHINGTON**

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### IMPLEMENTATION PLAN FOR THE JAMESTOWN S'KLALLAM TRIBE OF WASHINGTON

- 49.10161 Identification of plan.
- 49.10162 Approval status.
- 49.10163 Legal authority. [Reserved]
- 49.10164 Source surveillance. [Reserved]
- 49.10165 Classification of regions for episode plans.
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- 49.10168 Permits to construct.
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### IMPLEMENTATION PLAN FOR THE KALISPEL INDIAN COMMUNITY OF THE KALISPEL RESERVATION, WASHINGTON

- 49.10191 Identification of plan.
- 49.10192 Approval status.
- 49.10193 Legal authority. [Reserved]
- 49.10194 Source surveillance. [Reserved]
- 49.10195 Classification of regions for episode plans.
- 49.10196 Contents of implementation plan.
- 49.10197 EPA-approved Tribal rules and plans. [Reserved]
- 49.10198 Permits to construct.
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- 49.10200 Federally-promulgated regulations and Federal implementation plans.
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### IMPLEMENTATION PLAN FOR THE KLAMATH INDIAN TRIBE OF OREGON

- 49.10221 Identification of plan.
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- 49.10223 Legal authority. [Reserved]
- 49.10224 Source surveillance. [Reserved]
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- 49.10227 EPA-approved Tribal rules and plans. [Reserved]
- 49.10228 Permits to construct.
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### IMPLEMENTATION PLAN FOR THE KOOTENAI TRIBE OF IDAHO

- 49.10251 Identification of plan.

- 49.10252 Approval status.
- 49.10253 Legal authority. [Reserved]
- 49.10254 Source surveillance. [Reserved]
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- 49.10256 Contents of implementation plan.
- 49.10257 EPA-approved Tribal rules and plans. [Reserved]
- 49.10258 Permits to construct.
- 49.10259 Permits to operate.
- 49.10260 Federally-promulgated regulations and Federal implementation plans.
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### IMPLEMENTATION PLAN FOR THE LOWER ELWHA TRIBAL COMMUNITY OF THE LOWER ELWHA RESERVATION, WASHINGTON

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- 49.10282 Approval status.
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- 49.10284 Source surveillance. [Reserved]
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- 49.10287 EPA-approved Tribal rules and plans. [Reserved]
- 49.10288 Permits to construct.
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### IMPLEMENTATION PLAN FOR THE LUMMI TRIBE OF THE LUMMI RESERVATION, WASHINGTON

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- 49.10312 Approval status.
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- 49.10317 EPA-approved Tribal rules and plans. [Reserved]
- 49.10318 Permits to construct.
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### IMPLEMENTATION PLAN FOR THE MAKAH INDIAN TRIBE OF THE MAKAH INDIAN RESERVATION, WASHINGTON

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- 49.10347 EPA-approved Tribal rules and plans. [Reserved]
- 49.10348 Permits to construct.
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- 49.10377 EPA-approved Tribal rules and plans. [Reserved]
- 49.10378 Permits to construct.
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- 49.10380 Federally-promulgated regulations and Federal implementation plans.
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- 49.10403 Legal authority. [Reserved]
- 49.10404 Source surveillance. [Reserved]
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- 49.10407 EPA-approved Tribal rules and plans. [Reserved]
- 49.10408 Permits to construct.
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IMPLEMENTATION PLAN FOR THE NISQUALLY  
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- 49.10461 Identification of plan.
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- 49.10497 EPA-approved Tribal rules and plans. [Reserved]
- 49.10498 Permits to construct.
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- 49.10521 Identification of plan.
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- 49.10558 Permits to construct.
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- 49.10588 Permits to construct.
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- 49.10644 Source surveillance. [Reserved]
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- 49.10647 EPA-approved Tribal rules and plans. [Reserved]
- 49.10648 Permits to construct.
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- 49.10672 Approval status.
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- 49.10674 Source surveillance. [Reserved]
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- 49.10677 EPA-approved Tribal rules and plans. [Reserved]
- 49.10678 Permits to construct.
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- 49.10680 Federally-promulgated regulations and Federal implementation plans.
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### IMPLEMENTATION PLAN FOR THE SHOSHONE-BANNOCK TRIBES OF THE FORT HALL INDIAN RESERVATION OF IDAHO

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- 49.10703 Legal authority. [Reserved]
- 49.10704 Source surveillance. [Reserved]
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- 49.10708 Permits to construct.
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- 49.10734 Source surveillance. [Reserved]
- 49.10735 Classification of regions for episode plans.
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- 49.10737 EPA-approved Tribal rules and plans. [Reserved]
- 49.10738 Permits to construct.
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### IMPLEMENTATION PLAN FOR THE SKOKOMISH INDIAN TRIBE OF THE SKOKOMISH RESERVATION, WASHINGTON

- 49.10761 Identification of plan.
- 49.10762 Approval status.
- 49.10763 Legal authority. [Reserved]
- 49.10764 Source surveillance. [Reserved]
- 49.10765 Classification of regions for episode plans.
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- 49.10767 EPA-approved Tribal rules and plans. [Reserved]
- 49.10768 Permits to construct.
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### IMPLEMENTATION PLAN FOR THE SPOKANE TRIBE OF THE SPOKANE RESERVATION, WASHINGTON

- 49.10821 Identification of plan.
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- 49.10823 Legal authority. [Reserved]
- 49.10824 Source surveillance. [Reserved]
- 49.10825 Classification of regions for episode plans.
- 49.10827 EPA-approved Tribal rules and plans. [Reserved]
- 49.10828 Permits to construct.
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### IMPLEMENTATION PLAN FOR THE SQUAXIN ISLAND TRIBE OF THE SQUAXIN ISLAND RESERVATION, WASHINGTON

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IMPLEMENTATION PLAN FOR THE  
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- 49.10881 Identification of plan.
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- 49.10884 Source surveillance. [Reserved]
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- 49.10887 EPA-approved Tribal rules and plans. [Reserved]
- 49.10888 Permits to construct.
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- 49.10921 Identification of plan.
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- 49.10923 Legal authority. [Reserved]
- 49.10924 Source surveillance. [Reserved]
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- 49.10927 EPA-approved Tribal rules and plans. [Reserved]
- 49.10928 Permits to construct.
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IMPLEMENTATION PLAN FOR THE SWINOMISH  
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- 49.10951 Identification of plan.
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- 49.10953 Legal authority. [Reserved]
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- 49.10957 EPA-approved Tribal rules and plans. [Reserved]
- 49.10958 Permits to construct.
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IMPLEMENTATION PLAN FOR THE TULALIP  
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- 49.10981 Identification of plan.
- 49.10982 Approval status.
- 49.10983 Legal authority. [Reserved]
- 49.10984 Source surveillance. [Reserved]
- 49.10985 Classification of regions for episode plans.
- 49.10986 Contents of implementation plan.
- 49.10987 EPA-approved Tribal rules and plans. [Reserved]
- 49.10988 Permits to construct.
- 49.10989 Permits to operate.
- 49.10990 Federally-promulgated regulations and Federal implementation plans.
- 49.10991–49.11010 [Reserved]

IMPLEMENTATION PLAN FOR THE CONFED-  
ERATED TRIBES OF THE UMATILLA RESERVA-  
TION, OREGON

- 49.11011 Identification of plan.
- 49.11012 Approval status.
- 49.11013 Legal authority. [Reserved]
- 49.11014 Source surveillance. [Reserved]
- 49.11015 Classification of regions for episode plans.
- 49.11016 Contents of implementation plan.
- 49.11017 EPA-approved Tribal rules and plans. [Reserved]
- 49.11018 Permits to construct.
- 49.11019 Permits to operate.
- 49.11020 Federally-promulgated regulations and Federal implementation plans.
- 49.11021 Permits for general open burning, agricultural burning, and forestry and silvicultural burning.
- 49.11022–49.11040 [Reserved]

IMPLEMENTATION PLAN FOR THE UPPER  
SKAGIT INDIAN TRIBE OF WASHINGTON

- 49.11041 Identification of plan.
- 49.11042 Approval status.
- 49.11043 Legal authority. [Reserved]
- 49.11044 Source surveillance. [Reserved]
- 49.11045 Classification of regions for episode plans.
- 49.11046 Contents of implementation plan.
- 49.11047 EPA-approved Tribal rules and plans. [Reserved]
- 49.11048 Permits to construct.
- 49.11049 Permits to operate.
- 49.11050 Federally-promulgated regulations and Federal implementation plans.
- 49.11051–49.11070 [Reserved]

IMPLEMENTATION PLAN FOR THE CONFED-  
ERATED TRIBES OF THE WARM SPRINGS RES-  
ERVATION OF OREGON

- 49.11071 Identification of plan.
- 49.11072 Approval status.
- 49.11073 Legal authority. [Reserved]
- 49.11074 Source surveillance. [Reserved]
- 49.11075 Classification of regions for episode plans.
- 49.11076 Contents of implementation plan.

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49.11077 EPA-approved Tribal rules and plans. [Reserved]  
49.11078 Permits to construct.  
49.11079 Permits to operate.  
49.11080 Federally-promulgated regulations and Federal implementation plans.  
49.11081–49.11100 [Reserved]

### IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION, WASHINGTON

49.11101 Identification of plan.  
49.11102 Approval status.  
49.11103 Legal authority. [Reserved]  
49.11104 Source surveillance. [Reserved]  
49.11105 Classification of regions for episode plans.  
49.11106 Contents of implementation plan.  
49.11107 EPA-approved Tribal rules and plans. [Reserved]  
49.11108 Permits to construct.  
49.11109 Permits to operate.  
49.11110 Federally-promulgated regulations and Federal implementation plans.  
49.11111–49.17810 [Reserved]

### APPENDIX TO SUBPART M—ALPHABETICAL LISTING OF TRIBES AND CORRESPONDING SECTIONS

AUTHORITY: 42 U.S.C. 7401, *et seq.*

SOURCE: 63 FR 7271, Feb. 12, 1998, unless otherwise noted.

## Subpart A—Tribal Authority

### § 49.1 Program overview.

(a) The regulations in this part identify those provisions of the Clean Air Act (Act) for which Indian tribes are or may be treated in the same manner as States. In general, these regulations authorize eligible tribes to have the same rights and responsibilities as States under the Clean Air Act and authorize EPA approval of tribal air quality programs meeting the applicable minimum requirements of the Act.

(b) Nothing in this part shall prevent an Indian tribe from establishing additional or more stringent air quality protection requirements not inconsistent with the Act.

### § 49.2 Definitions.

(a) *Clean Air Act* or *Act* means those statutory provisions in the United States Code at 42 U.S.C. 7401, *et seq.*

(b) *Federal Indian Reservation*, *Indian Reservation* or *Reservation* means all land within the limits of any Indian reservation under the jurisdiction of the United States government, not-

withstanding the issuance of any patent, and including rights-of-way running through the reservation.

(c) *Indian tribe* or *tribe* means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) *Indian Tribe Consortium* or *Tribal Consortium* means a group of two or more Indian tribes.

(e) *State* means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and includes the Commonwealth of the Northern Mariana Islands.

### § 49.3 General Tribal Clean Air Act authority.

Tribes meeting the eligibility criteria of § 49.6 shall be treated in the same manner as States with respect to all provisions of the Clean Air Act and implementing regulations, except for those provisions identified in § 49.4 and the regulations that implement those provisions.

### § 49.4 Clean Air Act provisions for which it is not appropriate to treat tribes in the same manner as States.

Tribes will not be treated as States with respect to the following provisions of the Clean Air Act and any implementing regulations thereunder:

(a) Specific plan submittal and implementation deadlines for NAAQS-related requirements, including but not limited to such deadlines in sections 110(a)(1), 172(a)(2), 182, 187, 189, and 191 of the Act.

(b) The specific deadlines associated with the review and revision of implementation plans related to major fuel burning sources in section 124 of the Act.

(c) The mandatory imposition of sanctions under section 179 of the Act because of a failure to submit an implementation plan or required plan element by a specific deadline, or the submittal of an incomplete or disapproved plan or element.



(d) The provisions of section 110(c)(1) of the Act.

(e) Specific visibility implementation plan submittal deadlines established under section 169A of the Act.

(f) Specific implementation plan submittal deadlines related to interstate commissions under sections 169B(e)(2), 184(b)(1) and (c)(5) of the Act. For eligible tribes participating as members of such commissions, the Administrator shall establish those submittal deadlines that are determined to be practicable or, as with other non-participating tribes in an affected transport region, provide for Federal implementation of necessary measures.

(g) Any provisions of the Act requiring as a condition of program approval the demonstration of criminal enforcement authority or any provisions of the Act providing for the delegation of such criminal enforcement authority. Tribes seeking approval of a Clean Air Act program requiring such demonstration may receive program approval if they meet the requirements of § 49.8.

(h) The specific deadline for the submittal of operating permit programs in section 502(d)(1) of the Act.

(i) The mandatory imposition of sanctions under section 502(d)(2)(B) because of failure to submit an operating permit program or EPA disapproval of an operating permit program submittal in whole or part.

(j) The “2 years after the date required for submission of such a program under paragraph (1)” provision in section 502(d)(3) of the Act.

(k) Section 502(g) of the Act, which authorizes a limited interim approval of an operating permit program that substantially meets the requirements of Title V, but is not fully approvable.

(l) The provisions of section 503(c) of the Act that direct permitting authorities to establish a phased schedule assuring that at least one-third of the permit applications submitted within the first full year after the effective date of an operating permit program (or a partial or interim program) will be acted on by the permitting authority over a period not to exceed three years after the effective date.

(m) The provisions of section 507(a) of the Act that specify a deadline for the submittal of plans for establishing a

small business stationary source technical and environmental compliance assistance program.

(n) The provisions of section 507(e) of the Act that direct the establishment of a Compliance Advisory Panel.

(o) The provisions of section 304 of the Act that, read together with section 302(e) of the Act, authorize any person who provides the minimum required advance notice to bring certain civil actions in the Federal district courts against States in their capacity as States.

(p) The provisions of section 502(b)(6) of the Act that require that review of a final permit action under the Title V permitting program be “judicial” and “in State court,” and the provisions of section 502(b)(7) of the Act that require that review of a failure on the part of the permitting authority to act on permit applications or renewals by the time periods specified in section 503 of the Act be “judicial” and “in State court.”

(q) The provision of section 105(a)(1) that limits the maximum Federal share for grants to pollution control agencies to three-fifths of the cost of implementing programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards.

**§ 49.5 Tribal requests for additional Clean Air Act provisions for which it is not appropriate to treat tribes in the same manner as States.**

Any tribe may request that the Administrator specify additional provisions of the Clean Air Act for which it would be inappropriate to treat tribes in general in the same manner as States. Such request should clearly identify the provisions at issue and should be accompanied with a statement explaining why it is inappropriate to treat tribes in the same manner as States with respect to such provisions.

**§ 49.6 Tribal eligibility requirements.**

Sections 301(d)(2) and 302(r), 42 U.S.C. 7601(d)(2) and 7602(r), authorize the Administrator to treat an Indian tribe in the same manner as a State for the Clean Air Act provisions identified in

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§ 49.3 if the Indian tribe meets the following criteria:

(a) The applicant is an Indian tribe recognized by the Secretary of the Interior;

(b) The Indian tribe has a governing body carrying out substantial governmental duties and functions;

(c) The functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the tribe's jurisdiction; and

(d) The Indian tribe is reasonably expected to be capable, in the EPA Regional Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the Clean Air Act and all applicable regulations.

### **§ 49.7 Request by an Indian tribe for eligibility determination and Clean Air Act program approval.**

(a) An Indian tribe may apply to the EPA Regional Administrator for a determination that it meets the eligibility requirements of § 49.6 for Clean Air Act program approval. The application shall concisely describe how the Indian tribe will meet each of the requirements of § 49.6 and should include the following information:

(1) A statement that the applicant is an Indian tribe recognized by the Secretary of the Interior.

(2) A descriptive statement demonstrating that the applicant is currently carrying out substantial governmental duties and powers over a defined area. This statement should:

(i) Describe the form of the tribal government;

(ii) Describe the types of government functions currently performed by the tribal governing body such as, but not limited to, the exercise of police powers affecting (or relating to) the health, safety, and welfare of the affected population; taxation; and the exercise of the power of eminent domain; and

(iii) Identify the source of the tribal government's authority to carry out the governmental functions currently being performed.

(3) A descriptive statement of the Indian tribe's authority to regulate air quality. For applications covering

areas within the exterior boundaries of the applicant's reservation the statement must identify with clarity and precision the exterior boundaries of the reservation including, for example, a map and a legal description of the area. For tribal applications covering areas outside the boundaries of a reservation the statement should include:

(i) A map or legal description of the area over which the application asserts authority; and

(ii) A statement by the applicant's legal counsel (or equivalent official) that describes the basis for the tribe's assertion of authority (including the nature or subject matter of the asserted regulatory authority) which may include a copy of documents such as tribal constitutions, by-laws, charters, executive orders, codes, ordinances, and/or resolutions that support the tribe's assertion of authority.

(4) A narrative statement describing the capability of the applicant to administer effectively any Clean Air Act program for which the tribe is seeking approval. The narrative statement must demonstrate the applicant's capability consistent with the applicable provisions of the Clean Air Act and implementing regulations and, if requested by the Regional Administrator, may include:

(i) A description of the Indian tribe's previous management experience which may include the administration of programs and services authorized by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, *et seq.*), the Indian Mineral Development Act (25 U.S.C. 2101, *et seq.*), or the Indian Sanitation Facility Construction Activity Act (42 U.S.C. 2004a);

(ii) A list of existing environmental or public health programs administered by the tribal governing body and a copy of related tribal laws, policies, and regulations;

(iii) A description of the entity (or entities) that exercise the executive, legislative, and judicial functions of the tribal government;

(iv) A description of the existing, or proposed, agency of the Indian tribe that will assume primary responsibility for administering a Clean Air Act program (including a description of the relationship between the existing

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or proposed agency and its regulated entities);

(v) A description of the technical and administrative capabilities of the staff to administer and manage an effective air quality program or a plan which proposes how the tribe will acquire administrative and technical expertise. The plan should address how the tribe will obtain the funds to acquire the administrative and technical expertise.

(5) A tribe that is a member of a tribal consortium may rely on the expertise and resources of the consortium in demonstrating under paragraph (a)(4) of this section that the tribe is reasonably expected to be capable of carrying out the functions to be exercised consistent with § 49.6(d). A tribe relying on a consortium in this manner must provide reasonable assurances that the tribe has responsibility for carrying out necessary functions in the event the consortium fails to.

(6) Where applicable Clean Air Act or implementing regulatory requirements mandate criminal enforcement authority, an application submitted by an Indian tribe may be approved if it meets the requirements of § 49.8.

(7) Additional information required by the EPA Regional Administrator which, in the judgment of the EPA Regional Administrator, is necessary to support an application.

(8) Where the applicant has previously received authorization for a Clean Air Act program or for any other EPA-administered program, the applicant need only identify the prior authorization and provide the required information which has not been submitted in the previous application.

(b) A tribe may simultaneously submit a request for an eligibility determination and a request for approval of a Clean Air Act program.

(c) A request for Clean Air Act program approval must meet any applicable Clean Air Act statutory and regulatory requirements. A program approval request may be comprised of only partial elements of a Clean Air Act program, provided that any such elements are reasonably severable, that is, not integrally related to program elements that are not included in the plan submittal, and are consistent

with applicable statutory and regulatory requirements.

### § 49.8 Provisions for tribal criminal enforcement authority.

To the extent that an Indian tribe is precluded from asserting criminal enforcement authority, the Federal Government will exercise primary criminal enforcement responsibility. The tribe, with the EPA Region, shall develop a procedure by which the tribe will provide potential investigative leads to EPA and/or other appropriate Federal agencies, as agreed to by the parties, in an appropriate and timely manner. This procedure shall encompass all circumstances in which the tribe is incapable of exercising applicable enforcement requirements as provided in § 49.7(a)(6). This agreement shall be incorporated into a Memorandum of Agreement with the EPA Region.

### § 49.9 EPA review of tribal Clean Air Act applications.

(a) The EPA Regional Administrator shall process a request of an Indian tribe submitted under § 49.7 in a timely manner. The EPA Regional Administrator shall promptly notify the Indian tribe of receipt of the application.

(b) Within 30 days of receipt of an Indian tribe's initial, complete application, the EPA Regional Administrator shall notify all appropriate governmental entities.

(1) For tribal applications addressing air resources within the exterior boundaries of the reservation, EPA's notification of other governmental entities shall specify the geographic boundaries of the reservation.

(2) For tribal applications addressing non-reservation areas, EPA's notification of other governmental entities shall include the substance and bases of the tribe's jurisdictional assertions.

(c) The governmental entities shall have 30 days to provide written comments to EPA's Regional Administrator regarding any dispute concerning the boundary of the reservation. Where a tribe has asserted jurisdiction over non-reservation areas, appropriate governmental entities may request a single 30-day extension to the general 30-day comment period.

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(d) In all cases, comments must be timely, limited to the scope of the tribe's jurisdictional assertion, and clearly explain the substance, bases, and extent of any objections. If a tribe's assertion is subject to a conflicting claim, the EPA Regional Administrator may request additional information from the tribe and may consult with the Department of the Interior.

(e) The EPA Regional Administrator shall decide the jurisdictional scope of the tribe's program. If a conflicting claim cannot be promptly resolved, the EPA Regional Administrator may approve that portion of an application addressing all undisputed areas.

(f) A determination by the EPA Regional Administrator concerning the boundaries of a reservation or tribal jurisdiction over non-reservation areas shall apply to all future Clean Air Act applications from that tribe or tribal consortium and no further notice to governmental entities, as described in paragraph (b) of this section, shall be provided, unless the application presents different jurisdictional issues or significant new factual or legal information relevant to jurisdiction to the EPA Regional Administrator.

(g) If the EPA Regional Administrator determines that a tribe meets the requirements of § 49.6 for purposes of a Clean Air Act provision, the Indian tribe is eligible to be treated in the same manner as a State with respect to that provision, to the extent that the provision is identified in § 49.3. The eligibility will extend to all areas within the exterior boundaries of the tribe's reservation, as determined by the EPA Regional Administrator, and any other areas the EPA Regional Administrator has determined to be within the tribe's jurisdiction.

(h) Consistent with the exceptions listed in § 49.4, a tribal application containing a Clean Air Act program submittal will be reviewed by EPA in accordance with applicable statutory and regulatory criteria in a manner similar to the way EPA would review a similar State submittal.

(i) The EPA Regional Administrator shall return an incomplete or dis-

approved application to the tribe with a summary of the deficiencies.

### **§ 49.10 EPA review of State Clean Air Act programs.**

A State Clean Air Act program submittal shall not be disapproved because of failure to address air resources within the exterior boundaries of an Indian Reservation or other areas within the jurisdiction of an Indian tribe.

### **§ 49.11 Actions under section 301(d)(4) authority.**

Notwithstanding any determination made on the basis of authorities granted the Administrator under any other provision of this section, the Administrator, pursuant to the discretionary authority explicitly granted to the Administrator under sections 301(a) and 301(d)(4):

(a) Shall promulgate without unreasonable delay such Federal implementation plan provisions as are necessary or appropriate to protect air quality, consistent with the provisions of sections 304(a) and 301(d)(4), if a tribe does not submit a tribal implementation plan meeting the completeness criteria of 40 CFR part 51, appendix V, or does not receive EPA approval of a submitted tribal implementation plan.

(b) May provide up to 95 percent of the cost of implementing programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards. After two years from the date of each tribe's initial grant award, the maximum Federal share will be reduced to 90 percent, as long as the Regional Administrator determines that the tribe meets certain economic indicators that would provide an objective assessment of the tribe's ability to increase its share. The Regional Administrator may increase the maximum Federal share to 100 percent if the tribe can demonstrate in writing to the satisfaction of the Regional Administrator that fiscal circumstances within the tribe are constrained to such an extent that fulfilling the match would impose undue hardship.

§§ 49.12-49.21 [Reserved]

**§ 49.22 Federal implementation plan for Tri-Cities landfill, Salt River Pima-Maricopa Indian Community.**

(a) *Applicability.* This section applies to the owner or operator of the project located on the Reservation of the Salt River Pima Maricopa Indian Community (SRPMIC) in Arizona, including any new owner or operator in the event of a change in ownership of the project.

(b) *Definitions.* The following definitions apply to this section. Except as specifically defined herein, terms used in this section retain the meaning accorded them under the Clean Air Act.

*Actual emissions* means the actual rate of emissions of a pollutant from an emissions unit as determined in paragraphs (1)-(3) of this definition:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. EPA shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) EPA may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

*Begin actual construction* means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory ac-

tivities which mark the initiation of the change.

*Building, structure, facility, or installation* means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (*i.e.*, which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

*Commence* as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has: (1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

*Construction* means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

*EPA* means United States Environmental Protection Agency, Region 9.

*Fugitive emissions* means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

*Lowest achievable emission rate* means the more stringent rate of emissions based on the following:

(1) The most stringent emissions limitation which is contained in any State, Tribal, or federal implementation plan for such class or category of stationary source, unless the owner or operator of the project demonstrates

that such limitations are not achievable; or

(2) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

*Major stationary source* means a stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Act. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this project whether it is a major stationary source.

*Potential to emit* means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

*Project* means the construction of electricity-generating engines owned and operated by the Salt River Project at the Tri-Cities landfill, which are fueled by collected landfill gas.

*Secondary emissions* means emissions which would occur as a result of the construction or operation of a major stationary source, but do not come from the major stationary source itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source which causes the secondary emissions. Secondary emissions include emissions from any offsite sup-

port facility which would not be constructed or increase its emissions except as a result of the construction of operation of the major stationary source. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

*Stationary source* means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act.

(c) *Requirement to submit an application.* The owner or operator of the project shall submit an application for a permit to construct to EPA which contains all information necessary to perform any analysis or make any determination as required by this Federal Implementation Plan.

(d) *Source obligations.* (1) The owner or operator of the project shall not begin actual construction on the project without obtaining a nonattainment New Source Review permit regulating emissions of air pollutants. The EPA Region 9 Regional Administrator has the authority to issue such a permit. Any permit issued by EPA shall ensure that the project meets the following requirements:

(i) By the time the project is to commence operation, the owner or operator of the project must have obtained sufficient reductions in actual emissions from existing facilities within the same nonattainment area which satisfy the requirements of section 173 of the Clean Air Act, to offset the potential to emit of the project;

(ii) The owner or operator of the project must comply with the lowest achievable emissions rate;

(iii) The owner or operator of the project must demonstrate that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) located on the reservation of the SRPMIC are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Act; and

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(iv) The owner or operator of the project has provided an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location or construction.

(2) If the owner or operator constructs or operates the project not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct, or if the owner or operator subject to this section commences construction after January 24, 2000 without applying for and receiving approval under this section, then the owner or operator shall be subject to appropriate enforcement action.

(3) Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Administrator may extend the 18-month period upon a satisfactory showing that an extension is justified.

(4) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the Federal implementation plan and any other requirements under Tribal or Federal law.

(e) *Public participation.* (1) When issuing a permit for the project, the EPA Region 9 Regional Administrator shall follow the procedures for decision making for PSD permits contained in 40 CFR part 124, including the requirements for public notice, consideration of and response to public comment, and the opportunity for public hearing.

(2) Within 30 days after the EPA Region 9 Regional Administrator has issued a final permit decision, any person who filed comments on the draft permit or participated in the public hearing, if one has been held, may petition the Environmental Appeals Board to review any condition of the permit. Review of the permit decision will be governed by the regulations for review

of PSD permits contained in 40 CFR part 124.

[64 FR 65663, Nov. 23, 1999]

### § 49.23 Federal Implementation Plan Provisions for Four Corners Power Plant, Navajo Nation.

(a) *Applicability.* The provisions of this section shall apply to each owner or operator of the coal burning equipment designated as Units 1, 2, 3, 4, and 5 at the Four Corners Power Plant (the Plant) on the Navajo Nation Indian Reservation located in the Four Corners Interstate Air Quality Control Region (see 40 CFR 81.121).

(b) *Compliance Dates.* Compliance with the requirements of this section is required upon the effective date of this rule unless otherwise indicated by compliance dates contained in specific provisions.

(c) *Definitions.* For the purposes of this section:

(1) *Affirmative defense* means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

(2) *Air pollution control equipment* includes baghouses, particulate or gaseous scrubbers, and any other apparatus utilized to control emissions of regulated air contaminants which would be emitted to the atmosphere.

(3) *Business Day.* Business day means a normal working day, excluding weekends and Federal Holidays.

(4) *Daily average* means the arithmetic average of the hourly values measured in a 24-hour period.

(5) *Excess emissions* means the emissions of air contaminants in excess of an applicable emissions limitation or requirement.

(6) *Heat input* means heat derived from combustion of fuel in a Unit and does not include the heat input from preheated combustion air, recirculated flue gases, or exhaust gases from other sources. Heat input shall be in accordance with 40 CFR part 75.

(7) *Malfunction* means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a

normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions. This rule provides an affirmative defense to actions for penalties brought for excess emissions that arise during certain malfunction episodes. An affirmative defense is not available if during the period of excess emissions, there was an exceedance of the relevant ambient air quality standard that could be attributed to the emitting source.

(8) *Owner or Operator* means any person who owns, leases, operates, controls, or supervises the Plant or any of the coal burning equipment designated as Units 1, 2, 3, 4, or 5 at the Plant.

(9) *Oxides of nitrogen (NO<sub>x</sub>)* means the sum of nitric oxide (NO) and nitrogen dioxide (NO<sub>2</sub>) in the flue gas, expressed as nitrogen dioxide.

(10) *Plant-wide basis* means total stack emissions of any particular pollutant from all coal burning equipment at the Plant.

(11) *Regional Administrator* means the Regional Administrator of the Environmental Protection Agency (EPA) Region 9 or his/her authorized representative.

(12) *Shutdown* means the cessation of operation of any air pollution control equipment, process equipment, or process for any purpose. Specifically, for Units 1, 2, or 3, shutdown begins when the unit drops below 40 MW net load with the intent to remove the unit from service. For Units 4 or 5, shutdown begins when the unit drops below 300 MW net load with the intent to remove the unit from service.

(13) *Startup* means the setting into operation of any air pollution control equipment, process equipment, or process for any purpose. Specifically, for Units 1, 2, or 3, startup ends when the unit reaches 40 MW net load. For Units 4 or 5, startup ends when the unit reaches 400 MW net load.

(14) *24-hour period* means the period of time between 12:01 a.m. and 12 midnight.

(d) *Emissions Standards and Control Measures*—(1) *Sulfur Dioxide*. No owner or operator shall discharge or cause the

discharge of sulfur dioxide (SO<sub>2</sub>) into the atmosphere in excess of:

(i) 12.0 percent of the potential combustion concentration assuming all of the sulfur in the coal is converted to SO<sub>2</sub>. This percent emitted is determined by a daily calculation of the plantwide heatinput weighted annual average.

(ii) 17,900 pounds of total SO<sub>2</sub> emissions per hour averaged over any consecutive three (3) hour period, determined on a plant-wide basis.

(2) *Particulate Matter*. No owner or operator shall discharge or cause the discharge of particulate matter from any coal burning equipment into the atmosphere in excess of 0.050 pounds per million British thermal unit (lb/MMBtu) of heat input (higher heating value), as averaged from three sampling runs, each at 60 minutes in duration, each collecting a minimum sample of 30 dry standard cubic feet.

(3) *Dust*. Each owner or operator shall operate and maintain the existing dust suppression methods for controlling dust from the coal handling and storage facilities. Within ninety (90) days after promulgation of this section, the owner or operator shall submit to the Regional Administrator a description of the dust suppression methods for controlling dust from the coal handling and storage facilities, flyash handling and storage, and road sweeping activities. Within 548 days of promulgation of this section each owner or operator shall not emit dust with an opacity greater than 20 percent from any crusher, grinding mill, screening operation, belt conveyor, or truck loading or unloading operation.

(4) *Opacity*. No owner or operator shall discharge or cause the discharge of emissions from the stacks of Units 4 and 5 into the atmosphere exhibiting greater than 20% opacity, excluding uncombined water droplets, averaged over any six (6) minute period, except for one six (6) minute period per hour of not more than 27% opacity.

(5) *Oxides of nitrogen*. No owner or operator shall discharge or cause the discharge of NO<sub>x</sub> into the atmosphere.

(i) From either Unit 1 or 2 in excess of 0.85 lb/MMBtu of heat input per unit, and from either Units 3, 4, or 5 in excess of 0.65 lb/MMBtu of heat input per



unit averaged over any successive thirty (30) boiler operating day period;

(ii) In excess of 335,000 lb per 24-hour period when coal burning equipment is operating, on a plant-wide basis; for each hour when coal burning equipment is not operating, this limitation shall be reduced. If the unit which is not operating is Unit 1, 2, or 3, the limitation shall be reduced by 1,542 lb per hour for each unit which is not operating. If the unit which is not operating is Unit 4 or 5, the limitation shall be reduced by 4,667 lb per hour for each unit which is not operating.

(e) *Testing and Monitoring.* Upon completion of the installation of continuous emissions monitoring systems (CEMS) software as required in this section, compliance with the emissions limits set for SO<sub>2</sub> and NO<sub>x</sub> shall be determined by using data from a CEMS unless otherwise specified in paragraphs (e)(2) and (e)(4) of this section. Compliance with the emissions limit set for particulate matter shall be tested annually, or at such other time as requested by the Regional Administrator, based on data from testing conducted in accordance with 40 CFR part 60, appendix A, Methods 1 through 5, or any other method receiving prior approval from the Regional Administrator. Compliance with the emissions limits set for opacity shall be determined by using data from a Continuous Opacity Monitoring System (COMS) except during saturated stack conditions (uncombined water droplets). If the baghouse is operating within its normal operating parameters, the baghouse is not fully closed, and a high opacity reading occurs, it will be presumed that the occurrence was caused by saturated stack conditions and shall not be considered a violation.

(1) The owner or operator shall maintain and operate CEMS for SO<sub>2</sub>, NO or NO<sub>x</sub>, a diluent and, for Units 4 and 5 only, COMS, in accordance with 40 CFR 60.8 and 60.13, and appendix B of 40 CFR part 60. Within six (6) months of promulgation of this section, the owner or operator shall install CEMS and COMS software which complies with the requirements of this section. The owner or operator of the Plant may petition the Regional Administrator for extension of the six (6) month period for

good cause shown. Completion of 40 CFR part 75 monitor certification requirements shall be deemed to satisfy the requirements under 40 CFR 60.8 and 60.13 and appendix B of part 60. The owner or operator shall comply with the quality assurance procedures for CEMS found in 40 CFR part 75, and all reports required thereunder shall be submitted to the Regional Administrator. The owner or operator shall provide the Regional Administrator notice in accordance with 40 CFR 75.61.

(2) *Sulfur Dioxide.* For the purpose of determining compliance with this section, the sulfur dioxide inlet concentration (in lb/MMBtu) shall be calculated using the daily average percent sulfur and Btu content of the coal combusted. The inlet sulfur concentration and Btu content shall be determined in accordance with American Society for Testing and Materials (ASTM) methods or any other method receiving prior approval from the Regional Administrator. A daily fuel sample shall be collected using the coal sampling tower conforming to the ASTM specifications. The analyses shall be done on the daily sample using ASTM methods or any other method receiving prior approval from the Regional Administrator.

(i) The inlet sulfur dioxide concentration shall be calculated using the following formula:

$$I_s = 2(\%S_f)/GCV \times 10^4 \text{ English units}$$

Where:

$I_s$  = sulfur dioxide inlet concentrations in pounds per million Btu;

$\%S_f$  = weight

percent sulfur content of the fuel; and

GCV = Gross calorific value for the fuel in Btu per pound.

(ii) The total pounds of SO<sub>2</sub> generated by burning the coal shall be calculated by multiplying the SO<sub>2</sub> inlet concentration by the daily total heat input determined by the 40 CFR part 75 acid rain monitoring. This will determine the pounds of SO<sub>2</sub> produced per day. The SO<sub>2</sub> emitted from the stacks shall be determined by adding the daily SO<sub>2</sub> emissions from each stack as determined by the 40 CFR part 75 acid rain monitors. Compliance with the emission limit shall be determined for each day by adding that day's SO<sub>2</sub>

emissions and that day's SO<sub>2</sub> produced to the previous 364 days and then dividing the 365 days of emissions by the 365 days of SO<sub>2</sub> produced. Compliance is demonstrated if this fraction, converted to a percent, is equal to or less than 12.0 percent. The data from the 40 CFR part 75 monitors shall not be bias adjusted. If a valid SO<sub>2</sub> pounds per hour or heat input is not available for any hour for a unit, that heat input and SO<sub>2</sub> pounds per hour shall not be used in the calculation of the annual plant-wide average.

(3) *Particulate matter.* Particulate matter emissions shall be determined by averaging the results of three test runs. Each test run shall be sixty (60) minutes in duration and shall collect a minimum volume of thirty (30) dry standard cubic feet. Within six (6) months of promulgation of this section, particulate matter testing shall be conducted annually and at least six (6) months apart, with the equipment within 90 percent of maximum operation in accordance with 40 CFR 60.8 and appendix A to 40 CFR part 60. The owner or operator shall submit written notice of the date of testing no later than 21 days prior to testing. Testing may be performed on a date other than that already provided in a notice as long as notice of the new date is provided either in writing or by telephone or other means acceptable to the Region 9 Enforcement Office, and the notice is provided as soon as practicable after the new testing date is known, but no later than 7 days (or a shorter period as approved by the Region 9 Enforcement Office) in advance of the new date of testing.

(4) *Oxides of nitrogen.* The total daily plant-wide oxides of nitrogen emissions in pounds of NO<sub>2</sub> per day shall be calculated using the following formula:

$$TE = \sum_{i=1}^n \sum_{j=1}^m (E_{ij} \times H_{ij})$$

Where:

TE = total plant-wide nitrogen dioxide emissions (lb NO<sub>2</sub>/day);

E<sub>ij</sub> = hourly average emissions rate of each unit (lb NO<sub>2</sub>/MMBtu);

H<sub>ij</sub> = hourly total heat input for each unit (MMBtu);

n = the number of units of coal burning equipment operating during the hour;

m = the number of operating hours in a day, from midnight to midnight.

(5) Continuous emissions monitoring shall apply during all periods of operation of the coal burning equipment, including periods of startup, shutdown, and malfunction, except for CEMS breakdowns, repairs, calibration checks, and zero and span adjustments. Continuous monitoring systems for measuring SO<sub>2</sub>, NO<sub>x</sub>, and diluent gas shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period. Hourly averages shall be computed using at least one data point in each fifteen minute quadrant of an hour. Notwithstanding this requirement, an hourly average may be computed from at least two data points separated by a minimum of 15 minutes (where the unit operates for more than one quadrant in an hour) if data are unavailable as a result of performance of calibration, quality assurance, preventive maintenance activities, or backups of data from data acquisition and handling system, and recertification events. When valid SO<sub>2</sub> pounds per hour, NO<sub>2</sub> pounds per hour, or NO<sub>2</sub> pounds per million Btu emission data are not obtained because of continuous monitoring system breakdowns, repairs, calibration checks, or zero and span adjustments, emission data must be obtained by using other monitoring systems approved by the EPA to provide emission data for a minimum of 18 hours in at least 22 out of 30 successive boiler operating days. If a parameter essential for determining either the SO<sub>2</sub> pound per hour or the heat input is not valid or unavailable, that hour for that unit shall not be used in calculating the percent emissions of SO<sub>2</sub> for the plant-wide limit. The necessary software for determining compliance with the SO<sub>2</sub> plantwide annual average shall be installed and operating within 180 days of the effective date of this rule. The first day for determining compliance with the plantwide SO<sub>2</sub> limit shall be 365 days after the successful installation of the software.

(6) The owner or operator shall maintain a set of opacity filters to be used as audit standards.

(7) Nothing herein shall limit EPA's ability to ask for a test at any time

under Section 114 of the Clean Air Act, 42 U.S.C. 7414, and enforce against any violation.

(8) In order to provide reasonable assurance that the scrubbers for control of particulate matter from Units 1, 2, and 3 are being maintained and operated in a manner consistent with good air pollution control practice for minimizing emissions, the owner or operator shall comply with the following provisions:

(i) The owner or operator shall develop a plan to monitor, record, and report parameter(s) indicative of the proper operation of the scrubbers to provide a reasonable assurance of compliance with the particulate matter limits in paragraph (d)(2) of this section. The owner or operator shall submit this plan to the Regional Administrator no later than sixty (60) days after the effective date of this FIP. The owner or operator shall implement this plan within 90 days of approval by the Regional Administrator and shall commence reporting the data generated pursuant to the monitoring plan in accordance with the schedule in paragraph (e)(8)(v) of this section. If requested by the Regional Administrator, this plan shall be revised and submitted to the Regional Administrator for approval within sixty (60) days of the request. The revised plan shall be implemented within sixty (60) days of the Regional Administrator's approval.

(ii) In the event that the owner or operator is unable to develop the plan required in paragraph (e)(8)(i) of this section due to technical difficulties, fails to submit the plan within sixty (60) days of the effective date of this FIP, or the Regional Administrator disapproves the plan, the owner or operator shall install and operate devices to measure the pressure drop across each scrubber module and the total flow of scrubbing liquid to the venturi section of each scrubber module. The data from these instruments shall be monitored and recorded electronically. A minimum of one reading every 15 minutes shall be used to calculate an hourly average which shall be recorded and stored for at least a five-year period. The owner or operator shall report in an electronic format either all

hourly data, or one-hour averages deviating by more than 30 percent from the levels measured during the last particulate matter stack test that demonstrated compliance with the limit in this section. The owner or operator shall implement this requirement no later than one hundred eighty (180) days after the effective date of this FIP if it failed to submit the plan within sixty (60) days after the effective date of this FIP; or no later than 60 days after the Regional Administrator's disapproval of the plan.

(iii) The monitoring required under paragraphs (e)(8)(i) and (e)(8)(ii) of this section shall apply to each Unit at all times that the Unit is operating, except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments). A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(iv) The owner or operator may petition the Regional Administrator for an extension of the sixty (60) day deadline. Such extension shall be granted only if the owner or operator demonstrates to the satisfaction of the Regional Administrator that:

(A) The delay is due to technical infeasibility beyond the control of the owner or operator; and

(B) The requested extension, if granted, will allow the owner or operator to successfully complete the plan.

(v) The owner or operator shall submit to the Regional Administrator reports of the monitoring data required by this section semi-annually. The reports shall be postmarked within 30 days of the end of each calendar quarter.

(vi) The owner or operator shall develop and document a quality assurance program for the monitoring and recording instrumentation. This program shall be updated or improved as requested by the Regional Administrator.

(vii) In the event that a program for parameter monitoring on Units 1, 2,

and 3 is approved pursuant to the Compliance Assurance Monitoring rule, 40 CFR Part 64, such program will supersede the provisions contained in paragraph (e)(8) of this section.

(f) *Reporting and Recordkeeping Requirements.* Unless otherwise stated all requests, reports, submittals, notifications, and other communications to the Regional Administrator required by this section shall be submitted, unless instructed otherwise, to the Director, Navajo Environmental Protection Agency, P.O. Box 339, Window Rock, Arizona 86515, (928) 871-7692, (928) 871-7996 (facsimile), and to the Director, Air Division, U.S. Environmental Protection Agency, Region IX, to the attention of Mail Code: AIR-5, at 75 Hawthorne Street, San Francisco, California 94105, (415) 972-3990, (415) 947-3579 (facsimile). For each unit subject to the emissions limitation in this section and upon completion of the installation of CEMS and COMS as required in this section, the owner or operator shall comply with the following requirements:

(1) For each emissions limit in this section, comply with the notification and recordkeeping requirements for CEMS compliance monitoring in 40 CFR 60.7(c) and (d). For Units 4 and 5, periods of excess opacity due to water droplets shall be reported in the summary report required by 40 CFR 60.7(d).

(2) For each day, provide the 365 day percent SO<sub>2</sub> emitted, the total SO<sub>2</sub> emitted that day, and the total SO<sub>2</sub> produced that day. For any hours on any unit where data for SO<sub>2</sub> hourly pounds or heat input is missing, identify the unit number and monitoring device that did not produce valid data that caused the missing hour.

(3) Furnish the Regional Administrator with reports describing the results of the annual particulate matter emissions tests postmarked within sixty (60) days of completing the tests. Each report shall include the following information:

- (i) The test date;
- (ii) The test method;
- (iii) Identification of the coal burning equipment tested;
- (iv) Values for stack pressure, temperature, moisture, and distribution of velocity heads;

(v) Average heat input;

(vi) Emissions data, identified by sample number, and expressed in pounds per MMBtu;

(vii) Arithmetic average of sample data expressed in pounds per MMBtu; and

(viii) A description of any variances from the test method.

(4) *Excess Emissions Report.* (i) For excess emissions (except in the case of saturated stack conditions), the owner or operator shall notify the Navajo Environmental Protection Agency Director and the U.S. Environmental Protection Agency Regional Administrator by telephone or in writing within one business day (initial notification). A complete written report of the incident shall be submitted to the Navajo Environmental Protection Agency Director and the U.S. Environmental Protection Agency Regional Administrator within ten (10) working days of the initial notification. This notification should be sent to the Director, Navajo Environmental Protection Agency, by mail to: P.O. Box 339, Window Rock, Arizona 86515, or by facsimile to: (928) 871-7996 (facsimile), and to the Regional Administrator, U.S. Environmental Protection Agency, by mail to the attention of Mail Code: AIR-5, at 75 Hawthorne Street, San Francisco, California 94105, by facsimile to: (415) 947-3579 (facsimile), or by e-mail to: [r9.aeo@epa.gov](mailto:r9.aeo@epa.gov). The complete written report shall include:

(A) The name and title of the person reporting;

(B) The identity and location of the Plant and Unit(s) involved, and the emissions point(s), including bypass, from which the excess emissions occurred or are occurring;

(C) The time and duration or expected duration of the excess emissions;

(D) The magnitude of the excess emissions expressed in the units of the applicable emissions limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

(E) The nature of the condition causing the excess emissions and the reasons why excess emissions occurred or are occurring;

(F) If the excess emissions were the result of a malfunction, the steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunction;

(G) For an opacity exceedance, the 6-minute average opacity monitoring data greater than 20 percent for the 24 hours prior to and during the exceedance for Units 4 and 5; and

(H) The efforts taken or being taken to minimize the excess emissions and to repair or otherwise bring the Plant into compliance with the applicable emissions limit(s) or other requirements. For this reporting requirement, excess opacity due to saturated stack conditions is exempted.

(ii) If the period of excess emissions extends beyond the submittal of the written report, the owner or operator shall also notify the Regional Administrator in writing of the exact time and date when the excess emissions stopped. Compliance with the excess emissions notification provisions of this section shall not excuse or otherwise constitute a defense to any violations of this section or of any law or regulation which such excess emissions or malfunction may cause.

(g) *Equipment Operations.* At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the Plant including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the Plant. With regard to the operation of the baghouses on Units 4 and 5, placing the baghouses in service before coal fires are initiated will constitute compliance with this paragraph. (If the baghouse inlet temperature cannot achieve 185 degrees Fahrenheit using only gas fires, the owner or operator will not be expected to place baghouses in service before coal fires are initiated; however, the

owner or operator will remain subject to the requirements of this paragraph.)

(h) *Enforcement.* (1) Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant to whether the Plant would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not the owner or operator has violated or is in violation of any standard in the plan.

(2) During periods of startup and shutdown the otherwise applicable emission limits or requirements for opacity and particulate matter shall not apply provided that:

(i) At all times the facility is operated in a manner consistent with good practice for minimizing emissions, and the owner or operator uses best efforts regarding planning, design, and operating procedures to meet the otherwise applicable emission limit;

(ii) The frequency and duration of operation in start-up or shutdown mode are minimized to the maximum extent practicable; and

(iii) The owner or operator's actions during start-up and shutdown periods are documented by properly signed, contemporaneous operating logs, or other relevant evidence.

(3) Emissions in excess of the level of the applicable emission limit or requirement that occur due to a malfunction shall constitute a violation of the applicable emission limit. However, it shall be an affirmative defense in an enforcement action seeking penalties if the owner or operator has met with all of the following conditions:

(i) The malfunction was the result of a sudden and unavoidable failure of process or air pollution control equipment or of a process to operate in a normal or usual manner;

(ii) The malfunction did not result from operator error or neglect, or from improper operation or maintenance procedures;

(iii) The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

(iv) Steps were taken in an expeditious fashion to correct conditions leading to the malfunction, and the

amount and duration of the excess emissions caused by the malfunction were minimized to the maximum extent practicable;

(v) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality;

(vi) All emissions monitoring systems were kept in operation if at all possible; and

(vii) The owner or operator's actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence.

[72 FR 25705, May 7, 2007]

EFFECTIVE DATE NOTE: At 73 FR 67109, Nov. 13, 2008, paragraph (d)(3) of § 49.23 was stayed until further notice.

**§ 49.24 Federal Implementation Plan Provisions for Navajo Generating Station, Navajo Nation.**

(a) *Applicability.* The provisions of this section shall apply to each owner or operator of the fossil fuel-fired, steam-generating equipment designated as Units 1, 2, and 3, equipment associated with coal and ash handling, and the two auxiliary steam boilers at the Navajo Generating Station (NGS) on the Navajo Nation located in the Northern Arizona Intrastate Air Quality Control Region (*see* 40 CFR 81.270).

(b) *Compliance dates.* Compliance with the requirements of this section is required upon the effective date of this section.

(c) *Definitions.* For the purposes of this section:

(1) *Absorber upset transition period* means the 24-hour period following an upset of an SO<sub>2</sub> absorber module which resulted in the absorber being taken out of service.

(2) *Affirmative defense* means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding. This rule provides an affirmative defense to actions for penalties brought for excess emissions that arise during certain malfunction episodes.

(3) *Malfunction* means any sudden and unavoidable failure of air pollution

control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions. An affirmative defense is not available if during the period of excess emissions, there was an exceedance of the relevant ambient air quality standard that could be attributed to the emitting source.

(4) *Owner or Operator* means any person who owns, leases, operates, controls or supervises the NGS, any of the fossil fuel-fired, steam-generating equipment at the NGS, or the auxiliary steam boilers at the NGS.

(5) *Plant-wide* means a weighted average of particulate matter and SO<sub>2</sub> emissions for Units 1, 2, and 3 based on the heat input to each unit as determined by 40 CFR part 75.

(6) *Point source* means any crusher, any conveyor belt transfer point, any pneumatic material transferring, any baghouse or other control devices used to capture dust emissions from loading and unloading, and any other stationary point of dust that may be observed in conformance with Method 9 of Appendix A-4 of 40 CFR Part 60 (excluding stockpiles).

(7) *Regional Administrator* means the Regional Administrator of the Environmental Protection Agency Region 9 or his/her authorized representative.

(8) *Startup* shall mean the period from start of fires in the boiler with fuel oil, to the time when the electrostatic precipitator is sufficiently heated such that the temperature of the air preheater inlet reaches 400 degrees Fahrenheit and when a unit reaches 300 MW net load. Proper startup procedures shall include energizing the electrostatic precipitator prior to the combustion of coal in the boiler. This rule provides an affirmative defense to actions for penalties brought for excess emissions that arise during startup episodes. An affirmative defense is not available if during the period of excess emissions, there was an exceedance of the relevant ambient air quality standard that could be attributed to the emitting source.

(9) *Shutdown* shall begin when the unit drops below 300 MW net load with the intent to remove the unit from service. The precipitator shall be maintained in service until boiler fans are disengaged. This rule provides an affirmative defense to actions for penalties brought for excess emissions that arise during shutdown episodes. An affirmative defense is not available if during the period of excess emissions, there was an exceedance of the relevant ambient air quality standard that could be attributed to the emitting source.

(10) *Oxides of nitrogen (NO<sub>x</sub>)* means the sum of nitrogen oxide (NO) and nitrogen dioxide (NO<sub>2</sub>) in the flue gas, expressed as nitrogen dioxide.

(d) *Emissions limitations and control measures*—(1) *Sulfur oxides*. No owner or operator shall discharge or cause the discharge of sulfur oxides into the atmosphere from Units 1, 2, or 3 in excess of 1.0 pound per million British thermal units (lb/MMBtu) averaged over any three (3) hour period, on a plant-wide basis.

(2) *Particulate matter*. No owner or operator shall discharge or cause the discharge of particulate matter into the atmosphere in excess of 0.060 lb/MMBtu, on a plant-wide basis, as averaged from at least three sampling runs per stack, each at a minimum of 60 minutes in duration, each collecting a minimum sample of 30 dry standard cubic feet.

(3) *Dust*. Each owner or operator shall operate and maintain the existing dust suppression methods for controlling dust from the coal handling and storage facilities. Within ninety (90) days after promulgation of these regulations the owner or operator shall submit to the Regional Administrator a description of the dust suppression methods for controlling dust from the coal handling and storage facilities, fly ash handling and storage, and road sweeping activities. Each owner or operator shall not emit dust with an opacity greater than 20% from any crusher, grinding mill, screening operation, belt conveyor, truck loading or unloading operation, or railcar unloading station, as determined using 40 CFR Part 60, Appendix A–4 Method 9.

(4) *Opacity*. No owner or operator shall discharge or cause the discharge of emissions from the stacks of Units 1, 2, or 3 into the atmosphere exhibiting greater than 20% opacity, excluding condensed uncombined water droplets, averaged over any six (6) minute period and 40% opacity, averaged over six (6) minutes, during absorber upset transition periods.

(e) *Testing and monitoring*. (1) On and after the effective date of this regulation, the owner or operator shall maintain and operate Continuous Emissions Monitoring Systems (CEMS) for NO<sub>x</sub> and SO<sub>2</sub> and Continuous Opacity Monitoring Systems (COMS) on Units 1, 2, and 3 in accordance with 40 CFR 60.8 and 60.13(e), (f), and (h), and Appendix B of Part 60. The owner or operator shall comply with the quality assurance procedures for CEMS and COMS found in 40 CFR part 75.

(2) The owner or operator shall conduct annual mass emissions tests for particulate matter on Units 1, 2, and 3, operating at rated capacity, using coal that is representative of that normally used. The tests shall be conducted using the appropriate test methods in 40 CFR Part 60, Appendix A.

(3) During any calendar year in which an auxiliary boiler is operated for 720 hours or more, and at other times as requested by the Administrator, the owner or operator shall conduct mass emissions tests for sulfur dioxide, nitrogen oxides and particulate matter on the auxiliary steam boilers, operating at rated capacity, using oil that is representative of that normally used. The tests shall be conducted using the appropriate test methods in 40 CFR Part 60, Appendix A. For particulate matter, testing shall consist of three test runs. Each test run shall be at least sixty (60) minutes in duration and shall collect a minimum volume of thirty (30) dry standard cubic feet.

(4) The owner or operator shall maintain two sets of opacity filters for each type of COMS, one set to be used as calibration standards and one set to be used as audit standards. At least one set of filters shall be on site at all times.

(5) All emissions testing and monitor evaluation required pursuant to this

section shall be conducted in accordance with the appropriate method found in 40 CFR Part 60, Appendices A and B.

(6) The owner or operator shall install, maintain and operate ambient monitors at Glen Canyon Dam for particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>), nitrogen dioxide, sulfur dioxide, and ozone. Operation, calibration and maintenance of the monitors shall be performed in accordance with 40 CFR Part 58, manufacturer's specification, and "Quality Assurance Handbook for Air Pollution Measurements Systems", Volume II, U.S. EPA as applicable to single station monitors. Data obtained from the monitors shall be reported annually to the Regional Administrator. All particulate matter samplers shall operate at least once every six days, coinciding with the national particulate sampling schedule.

(7) Nothing herein shall limit EPA's ability to ask for a test at any time under section 114 of the Clean Air Act, 42 U.S.C. 7413, and enforce against any violation of the Clean Air Act or this section.

(8) A certified EPA Reference Method 9 of Appendix A-4 of 40 CFR Part 60 observer shall conduct a weekly visible emission observation for the equipment and activities described under Section 49.24(d)(3). If visible emissions are present at any of the equipment and/or activities, a 6-minute EPA Reference Method 9 observation shall be conducted. The name of the observer, date, and time of observation, results of the observations, and any corrective actions taken shall be noted in a log.

(f) *Reporting and recordkeeping requirements.* Unless otherwise stated all requests, reports, submittals, notifications and other communications to the Regional Administrator required by this section shall be submitted to the Director, Navajo Environmental Protection Agency, P.O. Box 339, Window Rock, Arizona 86515, (928) 871-7692, (928) 871-7996 (facsimile), and to the Director, Air Division, U.S. Environmental Protection Agency, Region IX, to the attention of Mail Code: AIR-5, at 75 Hawthorne Street, San Francisco, California 94105, (415) 972-3990, (415) 947-3579 (facsimile). For each unit subject to

the emissions limitations in this section the owner or operator shall:

(1) Comply with the notification and recordkeeping requirements for testing found in 40 CFR 60.7. All data/reports of testing results shall be submitted to the Regional Administrator and postmarked within 60 days of testing.

(2) For excess emissions, notify the Navajo Environmental Protection Agency Director and the U.S. Environmental Protection Agency Regional Administrator by telephone or in writing within one business day. This notification should be sent to the Director, Navajo Environmental Protection Agency, by mail to: P.O. Box 339, Window Rock, Arizona 86515, or by facsimile to: (928) 871-7996 (facsimile), and to the Regional Administrator, U.S. Environmental Protection Agency Region 9, by mail to the attention of Mail Code: AIR-5, at 75 Hawthorne Street, San Francisco, California 94105, by facsimile to: (415) 947-3579 (facsimile), or by e-mail to: [r9.aeo@epa.gov](mailto:r9.aeo@epa.gov). A complete written report of the incident shall be submitted to the Regional Administrator within ten (10) working days after the event. This notification shall include the following information:

(i) The identity of the stack and/or other emissions points where excess emissions occurred;

(ii) The magnitude of the excess emissions expressed in the units of the applicable emissions limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

(iii) The time and duration or expected duration of the excess emissions;

(iv) The identity of the equipment causing the excess emissions;

(v) The nature and cause of such excess emissions;

(vi) If the excess emissions were the result of a malfunction, the steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunction; and

(vii) The steps that were taken or are being taken to limit excess emissions.

(3) Notify the Regional Administrator verbally within one business day of determination that an exceedance of



the NAAQS has been measured by a monitor operated in accordance with this regulation. The notification to the Regional Administrator shall include the time, date, and location of the exceedance, and the pollutant and concentration of the exceedance. Compliance with this paragraph (f)(3)(v) shall not excuse or otherwise constitute a defense to any violations of this section or of any law or regulation which such excess emissions or malfunction may cause. The verbal notification shall be followed within fifteen (15) days by a letter containing the following information:

- (i) The time, date, and location of the exceedance;
- (ii) The pollutant and concentration of the exceedance;
- (iii) The meteorological conditions existing 24 hours prior to and during the exceedance;
- (iv) For a particulate matter exceedance, the 6-minute average opacity monitoring data greater than 20% for the 24 hours prior to and during the exceedance; and
- (v) Proposed plant changes such as operation or maintenance, if any, to prevent future exceedances.

(4) Submit quarterly excess emissions reports for sulfur dioxide and opacity as recorded by CEMS and COMS together with a CEMS data assessment report to the Regional Administrator no later than 30 days after each calendar quarter. The owner or operator shall complete the excess emissions reports according to the procedures in 40 CFR 60.7(c) and (d) and include the Cylinder Gas Audit. Excess opacity due to condensed water vapor in the stack does not constitute a reportable exceedance; however, the length of time during which water vapor interfered with COMs readings should be summarized in the 40 CFR 60.7 (c) report.

(g) *Compliance certifications.* Notwithstanding any other provision in this implementation plan, the owner or operator may use any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, for the purpose of submitting compliance certifications.

(h) *Equipment operations.* The owner or operator shall operate all equipment or systems needed to comply with this section in accordance with 40 CFR 60.11(d) and consistent with good engineering practices to keep emissions at or below the emissions limitations in this section, and following outages of any control equipment or systems the control equipment or system will be returned to full operation as expeditiously as practicable.

(i) *Enforcement.* (1) Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not a person has violated or is in violation of any standard in the plan.

(2) During periods of start-up and shutdown the otherwise applicable emission limits or requirements for opacity and particulate matter shall not apply provided that:

(i) At all times the facility is operated in a manner consistent with good practice for minimizing emissions, and the owner or operator uses best efforts regarding planning, design, and operating procedures to meet the otherwise applicable emission limit;

(ii) The frequency and duration of operation in start-up or shutdown mode are minimized to the maximum extent practicable; and

(iii) The owner or operator's actions during start-up and shutdown periods are documented by properly signed, contemporaneous operating logs, or other relevant evidence.

(3) Emissions in excess of the level of the applicable emission limit or requirement that occur due to a malfunction shall constitute a violation of the applicable emission limit. However, it shall be an affirmative defense in an enforcement action seeking penalties if the owner or operator has met with all of the following conditions:

(i) The malfunction was the result of a sudden and unavoidable failure of process or air pollution control equipment and did not result from inadequate design or construction of the

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process or air pollution control equipment;

(ii) The malfunction did not result from operator error or neglect, or from improper operation or maintenance procedures;

(iii) The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

(iv) Steps were immediately taken to correct conditions leading to the malfunction, and the amount and duration of the excess emissions caused by the malfunction were minimized to the maximum extent practicable;

(v) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality;

(vi) All emissions monitoring systems were kept in operation if at all possible; and

(vii) The owner or operator's actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence.

[75 FR 10179, Mar. 5, 2010]

§§ 49.25–49.50 [Reserved]

### Subpart B—General Provisions

§§ 49.51–49.100 [Reserved]

### Subpart C—General Federal Implementation Plan Provisions

SOURCE: 70 FR 18095, Apr. 8, 2005, unless otherwise noted.

§§ 49.101–49.120 [Reserved]

GENERAL RULES FOR APPLICATION TO INDIAN RESERVATIONS IN EPA REGION 10

#### § 49.121 Introduction.

(a) *What is the purpose of the “General Rules for Application to Indian Reservations in EPA Region 10”?* These “General Rules for Application to Indian Reservations in EPA Region 10” establish emission limitations and other requirements for air pollution sources located within Indian reservations in Idaho, Oregon, and Washington that are appropriate in order to ensure a basic level of air pollution control and to protect public health and welfare.

(b) *How were these “General Rules for Application to Indian Reservations in EPA Region 10” developed?* These “General Rules for Application to Indian Reservations in EPA Region 10” were developed in consultation with the Indian Tribes located in Idaho, Oregon, and Washington and with input from the public and State and local governments in Region 10. These general rules take into consideration the current air quality situations within Indian reservations, the known sources of air pollution, the needs and concerns of the Indian Tribes in that portion of Region 10, and the air quality rules in adjacent jurisdictions.

(c) *When are these “General Rules for Application to Indian Reservations in EPA Region 10” applicable to sources on a particular Indian reservation?* These “General Rules for Application to Indian Reservations in EPA Region 10” apply to air pollution sources on a particular Indian reservation when EPA has specifically promulgated one or more rules for that reservation. Rules will be promulgated through notice and comment rulemaking and will be specifically identified in the implementation plan for that reservation in Subpart M—Implementation Plans for Tribes—Region 10, of this part. These “General Rules for Application to Indian Reservations in EPA Region 10” apply only to air pollution sources located within the exterior boundaries of an Indian reservation or other reservation lands specified in subpart M of this part.

#### § 49.122 Partial delegation of administrative authority to a Tribe.

(a) *What is the purpose of this section?* The purpose of this section is to establish the process by which the Regional Administrator may delegate to an Indian Tribe partial authority to administer one or more of the Federal requirements in effect in subpart M of this part for a particular Indian reservation. The Federal requirements administered by the delegated Tribe will be subject to enforcement by EPA under Federal law. This section provides for administrative delegation and does not affect the eligibility criteria under § 49.6 for treatment in the same manner as a State.

(b) *How does a Tribe request partial delegation of administrative authority?* In order to be delegated authority to administer one or more of the Federal requirements that are in effect in subpart M of this part for a particular Indian reservation, the Tribe must submit a request to the Regional Administrator that:

- (1) Identifies the specific provisions for which delegation is requested;
- (2) Identifies the Indian reservation for which delegation is requested;
- (3) Includes a statement by the applicant's legal counsel (or equivalent official) that includes the following information:
  - (i) A statement that the applicant is an Indian Tribe recognized by the Secretary of the Interior;
  - (ii) A descriptive statement demonstrating that the applicant is currently carrying out substantial governmental duties and powers over a defined area and that it meets the requirements of § 49.7(a)(2); and
  - (iii) A description of the laws of the Indian Tribe that provide adequate authority to carry out the aspects of the provisions for which delegation is requested; and
- (4) Demonstrates that the Tribe has, or will have, the technical capability and adequate resources to carry out the aspects of the provisions for which delegation is requested.

(c) *How is the partial delegation of administrative authority accomplished?* (1) A Partial Delegation of Administrative Authority Agreement will set forth the terms and conditions of the delegation, will specify the provisions that the Tribe will be authorized to administer on behalf of EPA, and will be entered into by the Regional Administrator and the Tribe. The Agreement will become effective upon the date that both the Regional Administrator and the Tribe have signed the Agreement. Once the delegation becomes effective, the Tribe will have the authority under the Clean Air Act, to the extent specified in the Agreement, for administering one or more of the Federal requirements that are in effect in subpart M of this part for the particular Indian reservation and will act on behalf of the Regional Administrator.

(2) A Partial Delegation of Administrative Authority Agreement may be modified, amended, or revoked, in part or in whole, by the Regional Administrator after consultation with the Tribe. Any substantive modifications or amendments will be subject to the procedures in paragraph (d) of this section.

(d) *How will any partial delegation of administrative authority be publicized?* (1) Prior to making any final decision to delegate partial administrative authority to a Tribe under this section, EPA will consult with appropriate governmental entities outside of the specified reservation and city and county governments located within the boundaries of the specified reservation.

(2) The Regional Administrator will publish a notice in the FEDERAL REGISTER informing the public of any Partial Delegation of Administrative Authority Agreement for a particular Indian reservation and will note such delegation in the implementation plan for the Indian reservation. The Regional Administrator will also publish an announcement of the partial delegation agreement in local newspapers.

#### § 49.123 General provisions.

(a) *Definitions.* The following definitions apply for the purposes of the "General Rules for Application to Indian Reservations in EPA Region 10." Terms not defined herein have the meaning given to them in the Act.

*Act* means the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*).

*Actual emissions* means the actual rate of emissions, in tons per year, of an air pollutant emitted from an air pollution source. For an existing air pollution source, the actual emissions are the actual rate of emissions for the preceding calendar year and must be calculated using the actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. For a new air pollution source that did not operate during the preceding calendar year, the actual emissions are the estimated actual rate of emissions for the current calendar year.

*Administrator* means the Administrator of the United States Environmental Protection Agency (EPA) or an authorized representative of the Administrator.

*Agricultural activities* means the usual and customary activities of cultivating the soil, producing crops, and raising livestock for use and consumption. Agricultural activities do not include manufacturing, bulk storage, handling for resale, or the formulation of any agricultural chemical.

*Agricultural burning* means burning of vegetative debris from an agricultural activity that is necessary for disease or pest control, or for crop propagation and/or crop rotation.

*Air pollutant* means any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and by-product material) substance or matter that is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term air pollutant is used.

*Air pollution source (or source)* means any building, structure, facility, installation, activity, or equipment, or combination of these, that emits, or may emit, an air pollutant.

*Allowable emissions* means the emission rate of an air pollution source calculated using the maximum rated capacity of the source (unless the source is subject to Federally-enforceable limits that restrict the operating rate, hours of operation, or both) and the most stringent of the following:

- (1) The applicable standards in 40 CFR parts 60, 61, 62, and 63;
- (2) The applicable implementation plan emission limitations, including those with a future compliance date; or
- (3) The emissions rates specified in Federally-enforceable permit conditions.

*Ambient air* means that portion of the atmosphere, external to buildings, to which the general public has access.

*British thermal unit (Btu)* means the quantity of heat necessary to raise the

temperature of one pound of water one degree Fahrenheit.

*Coal* means all fuels classified as anthracite, bituminous, sub-bituminous, or lignite by ASTM International in ASTM D388-99 (Reapproved 2004)<sup>e1</sup>, Standard Classification of Coals by Rank (incorporated by reference, see § 49.123(e)).

*Combustion source* means any air pollution source that combusts a solid fuel, liquid fuel, or gaseous fuel, or an incinerator.

*Continuous emissions monitoring system (CEMS)* means the total equipment used to sample, condition (if applicable), analyze, and provide a permanent record of emissions.

*Continuous opacity monitoring system (COMS)* means the total equipment used to sample, analyze, and provide a permanent record of opacity.

*Distillate fuel oil* means any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils in ASTM Method D396-04, Standard Specification for Fuel Oils (incorporated by reference, see § 49.123(e)).

*Emission* means a direct or indirect release into the atmosphere of any air pollutant, or air pollutants released into the atmosphere.

*Emission factor* means an estimate of the amount of an air pollutant that is released into the atmosphere, as the result of an activity, in terms of mass of emissions per unit of activity (for example, the pounds of sulfur dioxide emitted per gallon of fuel burned).

*Emission unit* means any part of an air pollution source that emits, or may emit, air pollutants into the atmosphere.

*Federally enforceable* means all limitations and conditions that are enforceable by the Administrator.

*Forestry or silvicultural activities* means those activities associated with regeneration, growing, and harvesting of trees and timber including, but not limited to, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, fertilization, logging operations, and forest management techniques employed to enhance the growth of stands of trees or timber.

*Forestry or silvicultural burning* means burning of vegetative debris from a forestry or silvicultural activity that is necessary for disease or pest control, reduction of fire hazard, reforestation, or ecosystem management.

*Fuel* means any solid, liquid, or gaseous material that is combusted in order to produce heat or energy.

*Fuel oil* means a liquid fuel derived from crude oil or petroleum, including distillate oil, residual oil, and used oil.

*Fugitive dust* means a particulate matter emission made airborne by forces of wind, mechanical disturbance of surfaces, or both. Unpaved roads, construction sites, and tilled land are examples of sources of fugitive dust.

*Fugitive particulate matter* means particulate matter emissions that do not pass through a stack, chimney, vent, or other functionally equivalent opening. Fugitive particulate matter includes fugitive dust.

*Garbage* means food wastes.

*Gaseous fuel* means any fuel that exists in a gaseous state at standard conditions including, but not limited to, natural gas, propane, fuel gas, process gas, and landfill gas.

*Grate cleaning* means removing ash from fireboxes.

*Hardboard* means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

*Heat input* means the total gross calorific value [where gross calorific value is measured by ASTM Method D240–02, D1826–94(Reapproved 2003), D5865–04, or E711–87(Reapproved 2004) (incorporated by reference, see § 49.123(e))] of all fuels burned.

*Implementation plan* means a Tribal implementation plan approved by EPA pursuant to this part or 40 CFR part 51, or a Federal implementation plan promulgated by EPA in this part or in 40 CFR part 52 that applies in Indian country, or a combination of Tribal and Federal implementation plans.

*Incinerator* means any device, including a flare, designed to reduce the volume of solid, liquid, or gaseous waste by combustion. This includes air curtain incinerators, but does not include open burning.

*Indian country* means:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

*Marine vessel* means a waterborne craft, ship, or barge.

*Mobile sources* means locomotives, aircraft, motor vehicles, nonroad vehicles, nonroad engines, and marine vessels.

*Motor vehicle* means any self-propelled vehicle designed for transporting people or property on a street or highway.

*New air pollution source* means an air pollution source that begins actual construction after the effective date of the “General Rules for Application to Indian Reservations in EPA Region 10”.

*Noncombustibles* means materials that are not flammable, capable of catching fire, or burning.

*Nonroad engine* means:

(1) Except as discussed below, any internal combustion engine:

(i) In or on a piece of equipment that is self-propelled or that serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes, and bulldozers); or

(ii) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

(iii) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(2) An internal combustion engine is not a nonroad engine if:

(i) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Act; or

(ii) The engine is regulated by a Federal new source performance standard promulgated under section 111 of the Act; or

(iii) The engine that is otherwise portable or transportable remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. For purposes of this paragraph, a seasonal source is a stationary source that remains in a single location on a permanent basis (*i.e.*, at least 2 years) and that operates at that single location approximately 3 months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

*Nonroad vehicle* means a vehicle that is powered by a nonroad engine and that is not a motor vehicle or a vehicle used solely for competition.

*Oil-fired boiler* means a furnace or boiler used for combusting fuel oil for the primary purpose of producing steam or hot water by heat transfer.

*Opacity* means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background. For continuous opacity monitoring systems, opacity means the fraction of incident light that is attenuated by an optical medium.

*Open burning* means the burning of a material that results in the products of combustion being emitted directly into the atmosphere without passing through a stack. Open burning includes burning in burn barrels.

*Owner or operator* means any person who owns, leases, operates, controls, or supervises an air pollution source.

*Part 71 source* means any source subject to the permitting requirements of 40 CFR part 71, as provided in §§ 71.3(a) and 71.3(b).

*Particleboard* means a matformed flat panel consisting of wood particles bonded together with synthetic resin or other suitable binder.

*Particulate matter* means any airborne finely divided solid or liquid material, other than uncombined water. Particulate matter includes, but is not limited to, PM<sub>10</sub> and PM<sub>2.5</sub>.

*Permit to construct or construction permit* means a permit issued by the Regional Administrator pursuant to 40 CFR part 49 or 40 CFR part 52, or a permit issued by a Tribe pursuant to a program approved by the Administrator under 40 CFR part 51, subpart I, authorizing the construction or modification of a stationary source.

*Permit to operate or operating permit* means a permit issued by the Regional Administrator pursuant to § 49.139 or 40 CFR part 71, or by a Tribe pursuant to a program approved by the Administrator under 40 CFR part 51 or 40 CFR part 70, authorizing the operation of a stationary source.

*Plywood* means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.

*PM<sub>10</sub>* means particulate matter with an aerodynamic diameter less than or equal to 10 micrometers.

*PM<sub>2.5</sub>* means particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers.

*Potential to emit* means the maximum capacity of an air pollution source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the air pollution source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is Federally enforceable.

*Press/Cooling vent* means any opening through which particulate and gaseous emissions from plywood, particleboard, or hardboard manufacturing are exhausted, either by natural draft or powered fan, from the building housing the process. Such openings are generally located immediately above the board press, board unloader, or board cooling area.

*Process source* means an air pollution source using a procedure or combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

*Rated capacity* means the maximum sustainable capacity of the equipment.

*Reference method* means any method of sampling and analyzing for an air pollutant as specified in the applicable section.

*Refuse* means all solid, liquid, or gaseous waste material, including but not limited to, garbage, trash, household refuse, municipal solid waste, construction or demolition debris, or waste resulting from the operation of any business, trade, or industry.

*Regional Administrator* means the Regional Administrator of EPA Region 10 or an authorized representative of the Regional Administrator.

*Residual fuel oil* means any oil meeting the specifications of ASTM Grade 4, Grade 5, or Grade 6 fuel oils in ASTM Method D396-04, Standard Specification for Fuel Oils (incorporated by reference, see § 49.123(e)).

*Smudge pot* means a portable heater/burner that produces thick heavy smoke and that fruit growers place around an orchard in the evening to prevent the crop from freezing at night.

*Solid fuel* means wood, refuse, refuse-derived fuel, tires, tire-derived fuel, and other solid combustible material (other than coal), including any combination thereof.

*Solid fuel-fired boiler* means a furnace or boiler used for combusting solid fuel for the primary purpose of producing steam or hot water by heat transfer.

*Soot blowing* means using steam or compressed air to remove carbon from a furnace or from a boiler's heat transfer surfaces.

*Source* means the same as *air pollution source*.

*Stack* means any point in a source that conducts air pollutants to the atmosphere, including, but not limited to, a chimney, flue, conduit, pipe, vent, or duct, but not including a flare.

*Standard conditions* means a temperature of 293 degrees Kelvin (68 degrees Fahrenheit, 20 degrees Celsius) and a pressure of 101.3 kilopascals (29.92 inches of mercury).

*Start-up* means the setting into operation of a piece of equipment.

*Stationary source* means any building, structure, facility, or installation that emits, or may emit, any air pollutant.

*Tempering oven* means any facility used to bake hardboard following an oil treatment process.

*Uncombined water* means droplets of water that have not combined with hygroscopic particles or do not contain dissolved solids.

*Used oil* means petroleum products that have been recovered from another application.

*Veneer* means a single flat panel of wood not exceeding ¼ inch in thickness formed by slicing or peeling from a log.

*Veneer dryer* means equipment in which veneer is dried.

*Visible emissions* means air pollutants in sufficient amount to be observable to the human eye.

*Wood* means wood, wood residue, bark, or any derivative or residue thereof, in any form, including but not limited to sawdust, sanderdust, wood chips, scraps, slabs, millings, shavings, and processed pellets made from wood or other forest residues.

*Wood-fired boiler* means a furnace or boiler used for combusting wood for the primary purpose of producing steam or hot water by heat transfer.

*Wood-fired veneer dryer* means a veneer dryer that is directly heated by the products of combustion of wood in addition to, or exclusive of, steam or natural gas or propane combustion.

*Woodwaste burner* means a wigwam burner, teepee burner, silo burner, olive burner, truncated cone burner, or other such woodwaste-burning device used by the wood products industry for the disposal of wood wastes.

(b) *Requirement for testing.* The Regional Administrator may require, in a

permit to construct or a permit to operate, that a person demonstrate compliance with the “General Rules for Application to Indian Reservations in EPA Region 10” by performing a source test and submitting the test results to the Regional Administrator. A person may also be required by the Regional Administrator, in a permit to construct or permit to operate, to install and operate a continuous opacity monitoring system (COMS) or a continuous emissions monitoring system (CEMS) to demonstrate compliance. Nothing in the “General Rules for Application to Indian Reservations in EPA Region 10” limits the authority of the Regional Administrator to require, in an information request pursuant to section 114 of the Act, a person to demonstrate compliance by performing source testing, even where the source does not have a permit to construct or a permit to operate.

(c) *Requirement for monitoring, record-keeping, and reporting.* Nothing in the “General Rules for Application to Indian Reservations in EPA Region 10” precludes the Regional Administrator from requiring monitoring, record-keeping, and reporting, including monitoring, recordkeeping, and reporting in addition to that already required by an applicable requirement, in a permit to construct or permit to operate in order to ensure compliance.

(d) *Credible evidence.* For the purposes of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any requirement, nothing in the “General Rules for Application to Indian Reservations in EPA Region 10” precludes the use, including the exclusive use, of any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed.

(e) *Incorporation by reference.* The materials listed in this section are incorporated by reference in the corresponding sections noted. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on

the date of the approval, and a notice of any change in these materials will be published in the FEDERAL REGISTER. The materials are available for purchase at the corresponding addresses noted below, or are available for inspection at EPA’s Air and Radiation Docket and Information Center, located at 1301 Constitution Avenue, NW, Room B102, Mail Code 6102T, Washington, D.C. 20004, at EPA Region 10, Office of Air, Waste, and Toxics, 10th Floor, 1200 Sixth Avenue, Seattle, Washington 98101, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(1) The materials listed below are available for purchase from at least one of the following addresses: ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, Michigan 48106.

(i) ASTM D388-99(Reapproved 2004)€<sup>1</sup>, Standard Classification of Coals by Rank, Incorporation by reference (IBR) approved for § 49.123(a).

(ii) ASTM D396-04, Standard Specification for Fuel Oils, IBR approved for § 49.123(a).

(iii) ASTM D240-02, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter, IBR approved for § 49.123(a).

(iv) ASTM D1826-94(Reapproved 2003), Standard Test Method for Calorific (Heating) Value of Gases in Natural Gas Range by Continuous Recording Calorimeter, IBR approved for § 49.123(a).

(v) ASTM D5865-04, Standard Test Method for Gross Calorific Value of Coal and Coke, IBR approved for § 49.123(a).

(vi) ASTM E711-87(Reapproved 2004) Standard Test Method for Gross Calorific Value of Refuse-Derived Fuel by the Bomb Calorimeter, IBR approved for § 49.123(a).

(vii) ASTM D2880-03, Standard Specification for Gas Turbine Fuel Oils, IBR approved for § 49.130(e)(1).



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(viii) ASTM D4294–03, Standard Test Method for Sulfur in Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectroscopy, IBR approved for § 49.130(e)(1).

(ix) ASTM D6021–96(Reapproved 2001)€¹, Standard Test Method for Measurement of Total Hydrogen Sulfide in Residual Fuels by Multiple Headspace Extraction and Sulfur Specific Detection, IBR approved for § 49.130(e)(1).

(x) ASTM D3177–02, Standard Test Methods for Total Sulfur in the Analysis Sample of Coal and Coke, IBR approved for § 49.130(e)(2).

(xi) ASTM D4239–04a, Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke Using High Temperature Tube Furnace Combustion Methods, IBR approved for § 49.130(e)(2).

(xii) ASTM D2492–02, Standard Test Method for Forms of Sulfur in Coal, IBR approved for § 49.130(e)(2).

(xiii) ASTM E775–87(Reapproved 2004), Standard Test Methods for Total Sulfur in the Analysis Sample of Refuse-Derived Fuel, IBR approved for § 49.130(e)(3).

(xiv) ASTM D1072–90(Reapproved 1999), Standard Test Method for Total Sulfur in Fuel Gases, IBR approved for § 49.130(e)(4).

(xv) ASTM D3246–96, Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry, IBR approved for § 49.130(e)(4).

(xvi) ASTM D4084–94(Reapproved 1999) Standard Test Method for Analysis of Hydrogen Sulfide in Gaseous Fuels (Lead Acetate Reaction Rate Method), IBR approved for § 49.130(e)(4).

(xvii) ASTM D5504–01, Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence, IBR approved for § 49.130(e)(4).

(xviii) ASTM D4468–85(Reapproved 2000), Standard Test Method for Total Sulfur in Gaseous Fuels by Hydrogenolysis and Rateometric Colorimetry, IBR approved for § 49.130(e)(4).

(xix) ASTM D2622–03, Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-ray Fluorescence Spectrometry, IBR approved for § 49.130(e)(4).

(xx) ASTM D6228–98(Reapproved 2003), Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Flame Photometric Detection, IBR approved for § 49.130(e)(4).

### § 49.124 Rule for limiting visible emissions.

(a) *What is the purpose of this section?* This section limits the visible emissions of air pollutants from certain air pollution sources operating within the Indian reservation to control emissions of particulate matter to the atmosphere and ground-level concentrations of particulate matter, to detect the violation of other requirements in the “General Rules for Application to Indian Reservations in EPA Region 10”, and to indicate whether a source is continuously maintained and properly operated.

(b) *Who is affected by this section?* This section applies to any person who owns or operates an air pollution source that emits, or could emit, particulate matter or other visible air pollutants to the atmosphere, unless exempted in paragraph (c) of this section.

(c) *What is exempted from this section?* This section does not apply to open burning, agricultural activities, forestry and silvicultural activities, non-commercial smoke houses, sweat houses or lodges, smudge pots, furnaces and boilers used exclusively to heat residential buildings with four or fewer dwelling units, fugitive dust from public roads owned or maintained by any Federal, Tribal, State, or local government, and emissions from fuel combustion in mobile sources.

(d) *What are the opacity limits for air pollution sources?* (1) The visible emissions from an air pollution source must not exceed 20% opacity, averaged over any consecutive six-minute period, unless paragraph (d)(2) or (d)(3) of this section applies to the air pollution source.

(2) The visible emissions from an air pollution source may exceed the 20% opacity limit if the owner or operator of the air pollution source demonstrates to the Regional Administrator’s satisfaction that the presence of uncombined water, such as steam, is the only reason for the failure of an air

pollution source to meet the 20% opacity limit.

(3) The visible emissions from an oil-fired boiler or solid fuel-fired boiler that continuously measures opacity with a continuous opacity monitoring system (COMS) may exceed the 20% opacity limit during start-up, soot blowing, and grate cleaning for a single period of up to 15 consecutive minutes in any eight consecutive hours, but must not exceed 60% opacity at any time.

(e) *What is the reference method for determining compliance?* (1) The reference method for determining compliance with the opacity limits is EPA Method 9. A complete description of this method is found in appendix A of 40 CFR part 60.

(2) An alternative reference method for determining compliance is a COMS that complies with Performance Specification 1 found in appendix B of 40 CFR part 60.

(f) *Definitions of terms used in this section.* The following terms that are used in this section, are defined in § 49.123 General provisions: Act, agricultural activities, air pollutant, air pollution source, ambient air, coal, continuous opacity monitoring system (COMS), distillate fuel oil, emission, forestry or silvicultural activities, fuel, fuel oil, fugitive dust, gaseous fuel, grate cleaning, marine vessel, mobile sources, motor vehicle, nonroad engine, nonroad vehicle, oil-fired boiler, opacity, open burning, particulate matter, PM10, PM2.5, reference method, refuse, Regional Administrator, residual fuel oil, smudge pot, solid fuel, solid fuel-fired boiler, soot blowing, stack, standard conditions, start-up, stationary source, uncombined water, used oil, visible emissions, and wood.

#### **§ 49.125 Rule for limiting the emissions of particulate matter.**

(a) *What is the purpose of this section?* This section limits the amount of particulate matter that may be emitted from certain air pollution sources operating within the Indian reservation to control ground-level concentrations of particulate matter.

(b) *Who is affected by this section?* This section applies to any person who owns or operates an air pollution source that

emits, or could emit, particulate matter to the atmosphere, unless exempted in paragraph (c) of this section.

(c) *What is exempted from this section?* This section does not apply to woodwaste burners, furnaces and boilers used exclusively for space heating with a rated heat input capacity of less than 400,000 British thermal units (Btu) per hour, non-commercial smoke houses, sweat houses or lodges, open burning, and mobile sources.

(d) *What are the particulate matter limits for air pollution sources?* (1) Particulate matter emissions from a combustion source stack (except for wood-fired boilers) must not exceed an average of 0.23 grams per dry standard cubic meter (0.1 grains per dry standard cubic foot), corrected to seven percent oxygen, during any three-hour period.

(2) Particulate matter emissions from a wood-fired boiler stack must not exceed an average of 0.46 grams per dry standard cubic meter (0.2 grains per dry standard cubic foot), corrected to seven percent oxygen, during any three-hour period.

(3) Particulate matter emissions from a process source stack, or any other stack not subject to paragraph (d)(1) or (d)(2) of this section, must not exceed an average of 0.23 grams per dry standard cubic meter (0.1 grains per dry standard cubic foot) during any three-hour period.

(e) *What is the reference method for determining compliance?* The reference method for determining compliance with the particulate matter limits is EPA Method 5. A complete description of this method is found in appendix A of 40 CFR part 60.

(f) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Act, air pollutant, air pollution source, ambient air, British thermal unit (Btu), coal, combustion source, distillate fuel oil, emission, fuel, fuel oil, gaseous fuel, heat input, incinerator, marine vessel, mobile sources, motor vehicle, nonroad engine, nonroad vehicle, open burning, particulate matter, PM10, PM2.5, process source, reference method, refuse, residual fuel oil, solid fuel, stack, standard conditions, stationary source,

uncombined water, used oil, wood, wood-fired boiler, and woodwaste burner.

**§ 49.126 Rule for limiting fugitive particulate matter emissions.**

(a) *What is the purpose of this section?* This section limits the amount of fugitive particulate matter that may be emitted from certain air pollution sources operating within the Indian reservation to control ground-level concentrations of particulate matter.

(b) *Who is affected by this section?* This section applies to any person who owns or operates a source of fugitive particulate matter emissions.

(c) *What is exempted from this section?* This section does not apply to open burning, agricultural activities, forestry and silvicultural activities, sweat houses or lodges, non-commercial smoke houses, public roads owned or maintained by any Federal, Tribal, State, or local government, or activities associated with single-family residences or residential buildings with four or fewer dwelling units.

(d) *What are the requirements for sources of fugitive particulate matter emissions?* (1) The owner or operator of any source of fugitive particulate matter emissions, including any source or activity engaged in materials handling or storage, construction, demolition, or any other operation that is or may be a source of fugitive particulate matter emissions, must take all reasonable precautions to prevent fugitive particulate matter emissions and must maintain and operate the source to minimize fugitive particulate matter emissions.

(2) Reasonable precautions include, but are not limited to the following:

(i) Use, where possible, of water or chemicals for control of dust in the demolition of buildings or structures, construction operations, grading of roads, or clearing of land.

(ii) Application of asphalt, oil (but not used oil), water, or other suitable chemicals on unpaved roads, materials stockpiles, and other surfaces that can create airborne dust.

(iii) Full or partial enclosure of materials stockpiles in cases where application of oil, water, or chemicals is not sufficient or appropriate to prevent

particulate matter from becoming airborne.

(iv) Implementation of good housekeeping practices to avoid or minimize the accumulation of dusty materials that have the potential to become airborne, and the prompt cleanup of spilled or accumulated materials.

(v) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials.

(vi) Adequate containment during sandblasting or other similar operations.

(vii) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne.

(viii) The prompt removal from paved streets of earth or other material that does or may become airborne.

(e) *Are there additional requirements that must be met?* (1) A person subject to this section must:

(i) Annually survey the air pollution source(s) during typical operating conditions and meteorological conditions conducive to producing fugitive dust to determine the sources of fugitive particulate matter emissions. For new sources or new operations, a survey must be conducted within 30 days after commencing operation. Document the results of the survey, including the date and time of the survey and identification of any sources of fugitive particulate matter emissions found.

(ii) If sources of fugitive particulate matter emissions are present, determine the reasonable precautions that will be taken to prevent fugitive particulate matter emissions.

(iii) Prepare, and update as necessary following each survey, a written plan that specifies the reasonable precautions that will be taken and the procedures to be followed to prevent fugitive particulate matter emissions, including appropriate monitoring and recordkeeping. For construction or demolition activities, a written plan must be prepared prior to commencing construction or demolition.

(iv) Implement the written plan, and maintain and operate the source to minimize fugitive particulate matter emissions.

(v) Maintain records for five years that document the surveys and the reasonable precautions that were taken to prevent fugitive particulate matter emissions.

(2) The Regional Administrator may require specific actions to prevent fugitive particulate matter emissions, or impose conditions to maintain and operate the air pollution source to minimize fugitive particulate matter emissions, in a permit to construct or a permit to operate for the source.

(3) Efforts to comply with this section cannot be used as a reason for not complying with other applicable laws and ordinances.

(f) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Agricultural activities, air pollutant, air pollution source, ambient air, emission, forestry or silvicultural activities, fugitive dust, fugitive particulate matter, owner or operator, particulate matter, permit to construct, permit to operate, PM10, PM2.5, Regional Administrator, source, stack, and uncombined water.

#### § 49.127 Rule for woodwaste burners.

(a) *What is the purpose of this section?* This section phases out the operation of woodwaste burners (commonly known as wigwam or teepee burners), and in the interim, limits the visible emissions from woodwaste burners within the Indian reservation to control emissions of particulate matter to the atmosphere and ground-level concentrations of particulate matter.

(b) *Who is affected by this section?* This section applies to any person who owns or operates a woodwaste burner.

(c) *What are the requirements for woodwaste burners?* (1) Except as provided by paragraph (c)(3) of this section, the owner or operator of a woodwaste burner must shut down and dismantle the woodwaste burner by no later than two years after the effective date of this section. The requirement for dismantling applies to all woodwaste burners regardless of whether or not the woodwaste burners are currently operational. Until the woodwaste burner is shut down, visible emissions from the woodwaste burner must not exceed 20% opacity, averaged

over any consecutive six-minute period.

(2) Until the woodwaste burner is shut down, only wood waste generated on-site may be burned or disposed of in the woodwaste burner.

(3) If there is no reasonably available alternative method of disposal for the wood waste other than by burning it on-site in a woodwaste burner, the owner or operator of the woodwaste burner that is in compliance with the opacity limit in paragraph (c)(1) of this section, may apply to the Regional Administrator for an extension of the two-year deadline. If the Regional Administrator finds that there is no reasonably available alternative method of disposal, then a two-year extension of the deadline may be granted. There is no limit to the number of extensions that may be granted by the Regional Administrator.

(d) *What is the reference method for determining compliance with the opacity limit?* (1) The reference method for determining compliance with the opacity limit is EPA Method 9. A complete description of this method is found in 40 CFR part 60, appendix A.

(2) [Reserved]

(e) *Are there additional requirements that must be met?* A person subject to this section must submit a plan to shut down and dismantle the woodwaste burner to the Regional Administrator within 180 days after the effective date of this section. Unless an extension has been granted by the Regional Administrator, the woodwaste burner must be shut down and dismantled within two years after the effective date of this section. The owner or operator of the woodwaste burner must notify the Regional Administrator that the woodwaste burner has been shut down and dismantled within 30 days after completion.

(f) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Air pollutant, ambient air, emission, opacity, owner or operator, particulate matter, PM10, PM2.5, reference method, Regional Administrator, stationary source, uncombined water, visible emissions, wood, and woodwaste burner.

**§ 49.128 Rule for limiting particulate matter emissions from wood products industry sources.**

(a) *What is the purpose of this section?* This section limits the amount of particulate matter that may be emitted from certain wood products industry sources operating within the Indian reservation to control ground-level concentrations of particulate matter.

(b) *Who is affected by this section?* This section applies to any person who owns or operates any of the following wood products industry sources:

- (1) Veneer manufacturing operations;
- (2) Plywood manufacturing operations;
- (3) Particleboard manufacturing operations; and
- (4) Hardboard manufacturing operations.

(c) *What are the PM10 emission limits for wood products industry sources?* These PM10 limits are in addition to, and not in lieu of, the particulate matter limits for combustion sources and process sources.

(1) *Veneer dryers at veneer manufacturing operations and plywood manufacturing operations.* (i) PM10 emissions from direct natural gas fired or direct propane fired veneer dryers must not exceed 0.3 pounds per 1000 square feet of veneer dried ( $\frac{3}{8}$  inch basis), one-hour average.

(ii) PM10 emissions from steam heated veneer dryers must not exceed 0.3 pounds per 1000 square feet of veneer dried ( $\frac{3}{8}$  inch basis), one-hour average.

(iii) PM10 emissions from wood fired veneer dryers must not exceed a total of 0.3 pounds per 1000 square feet of veneer dried ( $\frac{3}{8}$  inch basis) and 0.2 pounds per 1000 pounds of steam generated in boilers, prorated for the amount of combustion gases routed to the veneer dryer, one-hour average.

(2) *Wood particle dryers at particleboard manufacturing operation.* PM10 emissions from wood particle dryers must not exceed a total of 0.4 pounds per 1000 square feet of board produced by the plant ( $\frac{3}{4}$  inch basis), one-hour average.

(3) *Press/cooling vents at hardboard manufacturing operations.* PM10 emissions from hardboard press/cooling vents must not exceed 0.3 pounds per

1000 square feet of hardboard produced ( $\frac{1}{8}$  inch basis), one-hour average.

(4) *Tempering ovens at hardboard manufacturing operations.* A person must not operate any hardboard tempering oven unless all gases and vapors are collected and treated in a fume incinerator capable of raising the temperature of the gases and vapors to at least 1500 degrees Fahrenheit for 0.3 seconds or longer.

(d) *What is the reference method for determining compliance?* The reference method for determining compliance with the PM10 limits is EPA Method 202 in conjunction with Method 201A. A complete description of these methods is found in appendix M of 40 CFR part 51.

(e) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Act, combustion source, emissions, hardboard, particleboard, particulate matter, plywood, PM10, PM2.5, press/cooling vent, process source, tempering oven, veneer, veneer dryer, wood, and wood-fired veneer dryer.

**§ 49.129 Rule for limiting emissions of sulfur dioxide.**

(a) *What is the purpose of this section?* This section limits the amount of sulfur dioxide (SO<sub>2</sub>) that may be emitted from certain air pollution sources operating within the Indian reservation to control ground-level concentrations of SO<sub>2</sub>.

(b) *Who is affected by this section?* This section applies to any person who owns or operates an air pollution source that emits, or could emit, SO<sub>2</sub> to the atmosphere.

(c) *What is exempted from this section?* This section does not apply to furnaces and boilers used exclusively for space heating with a rated heat input capacity of less than 400,000 British thermal units (Btu) per hour, and mobile sources.

(d) *What are the sulfur dioxide limits for sources?* (1) Sulfur dioxide emissions from a combustion source stack must not exceed an average of 500 parts per million by volume, on a dry basis and corrected to seven percent oxygen, during any three-hour period.

(2) Sulfur dioxide emissions from a process source stack, or any other stack not subject to (d)(1) of this section, must not exceed an average of 500 parts per million by volume, on a dry basis, during any three-hour period.

(e) *What are the reference methods for determining compliance?* (1) The reference methods for determining compliance with the SO<sub>2</sub> limits are EPA Methods 6, 6A, 6B, and 6C as specified in the applicability section of each method. A complete description of these methods is found in appendix A of 40 CFR part 60.

(2) An alternative reference method is a continuous emissions monitoring system (CEMS) that complies with Performance Specification 2 found in appendix B of 40 CFR part 60.

(f) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Act, air pollutant, air pollution source, ambient air, British thermal unit (Btu), coal, combustion source, continuous emissions monitoring system (CEMS), distillate fuel oil, emission, fuel, fuel oil, gaseous fuel, heat input, incinerator, marine vessel, mobile sources, motor vehicle, nonroad engine, nonroad vehicle, open burning, process source, reference method, refuse, residual fuel oil, solid fuel, stack, standard conditions, stationary source, used oil, wood, and woodwaste burner.

#### § 49.130 Rule for limiting sulfur in fuels.

(a) *What is the purpose of this section?* This section limits the amount of sulfur contained in fuels that are burned at stationary sources within the Indian reservation to control emissions of sulfur dioxide (SO<sub>2</sub>) to the atmosphere and ground-level concentrations of SO<sub>2</sub>.

(b) *Who is affected by this section?* This section applies to any person who sells, distributes, uses, or makes available for use, any fuel oil, coal, solid fuel, liquid fuel, or gaseous fuel within the Indian reservation.

(c) *What is exempted from this section?* This section does not apply to gasoline and diesel fuel, such as automotive and marine diesel, regulated under 40 CFR part 80.

(d) *What are the sulfur limits for fuels?*

A person must not sell, distribute, use, or make available for use any fuel oil, coal, solid fuel, liquid fuel, or gaseous fuel that contains more than the following amounts of sulfur:

(1) For distillate fuel oil, 0.3 percent by weight for ASTM Grade 1 fuel oil;

(2) For distillate fuel oil, 0.5 percent by weight for ASTM Grade 2 fuel oil;

(3) For residual fuel oil, 1.75 percent sulfur by weight for ASTM Grades 4, 5, or 6 fuel oil;

(4) For used oil, 2.0 percent sulfur by weight;

(5) For any liquid fuel not listed in paragraphs (d)(1) through (d)(4) of this section, 2.0 percent sulfur by weight;

(6) For coal, 1.0 percent sulfur by weight;

(7) For solid fuels, 2.0 percent sulfur by weight;

(8) For gaseous fuels, 1.1 grams of sulfur per dry standard cubic meter of gaseous fuel (400 parts per million at standard conditions).

(e) *What are the reference methods for determining compliance?* The reference methods for determining the amount of sulfur in a fuel are as follows:

(1) Sulfur content in fuel oil or liquid fuels: ASTM methods D2880-03, D4294-03, and D6021-96 (Reapproved 2001)€<sup>1</sup> (incorporated by reference, see § 49.123(e));

(2) Sulfur content in coal: ASTM methods D3177-02, D4239-04a, and D2492-02 (incorporated by reference, see § 49.123(e));

(3) Sulfur content in solid fuels: ASTM method E775-87€<sup>1</sup> (Reapproved 2004) (incorporated by reference, see § 49.123(e));

(4) Sulfur content in gaseous fuels: ASTM methods D1072-90 (Reapproved 1999), D3246-96, D4084-94€<sup>1</sup> (Reapproved 1999), D5504-01, D4468-85€<sup>1</sup> (Reapproved 2000), D2622-03, and D6228-98€<sup>1</sup> (Reapproved 2003) (incorporated by reference, see § 49.123(e)).

(f) *Are there additional requirements that must be met?* (1) A person subject to this section must:

(i) For fuel oils and liquid fuels, obtain, record, and keep records of the percent sulfur by weight from the vendor for each purchase of fuel. If the vendor is unable to provide this information, then obtain a representative

grab sample for each purchase and test the sample using the reference method.

(ii) For gaseous fuels, either obtain, record, and keep records of the sulfur content from the vendor, or continuously monitor the sulfur content of the fuel gas line using a method that meets the requirements of Performance Specification 5, 7, 9, or 15 (as applicable for the sulfur compounds in the gaseous fuel) of appendix B and appendix F of 40 CFR part 60. If only purchased natural gas is used, then keep records showing that the gaseous fuel meets the definition of natural gas in 40 CFR 72.2.

(iii) For coal and solid fuels, either obtain, record, and keep records of the percent sulfur by weight from the vendor for each purchase of coal or solid fuel, or obtain a representative grab sample for each day of operation and test the sample using the reference method. If only wood is used, then keep records showing that only wood was used. The owner or operator of a coal- or solid fuel-fired source may apply to the Regional Administrator for a waiver of this provision or for approval of an alternative fuel sampling program.

(2) Records of fuel purchases and fuel sulfur content must be kept for a period of five years from date of purchase and must be made available to the Regional Administrator upon request.

(3) The owner or occupant of a single-family residence, and the owner or manager of a residential building with four or fewer dwelling units, is not subject to the requirement to obtain and record the percent sulfur content from the vendor if the fuel used in an oil, coal, or gas furnace is purchased from a licensed fuel distributor.

(g) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Act, air pollutant, ambient air, coal, distillate fuel oil, emission, fuel, fuel oil, gaseous fuel, marine vessel, mobile sources, motor vehicle, nonroad engine, nonroad vehicle, owner or operator, reference method, refuse, Regional Administrator, residual fuel oil, solid fuel, source, standard conditions, stationary source, used oil, and wood.

#### § 49.131 General rule for open burning.

(a) *What is the purpose of this section?*

This section limits the types of materials that can be openly burned within the Indian reservation to control emissions of particulate matter and other noxious fumes to the atmosphere and ground-level concentrations of particulate matter. It is EPA's goal to eliminate open burning disposal practices where alternative methods are feasible and practicable, to encourage the development of alternative disposal methods, to emphasize resource recovery, and to encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible.

(b) *Who is affected by this section?* This section applies to any person who conducts open burning and to the owner of the property upon which open burning is conducted.

(c) *What is exempted from this section?* The following open fires are exempted from this section:

(1) Outdoor fires set for cultural or traditional purposes;

(2) Fires set for cultural or traditional purposes within structures such as sweat houses or lodges;

(3) Except during a burn ban under paragraphs (d)(2) and (d)(3) of this section, fires set for recreational purposes provided that no prohibited materials are burned;

(4) Except during a burn ban under paragraphs (d)(2) and (d)(3) of this section and with prior permission from the Regional Administrator, open outdoor fires used by qualified personnel to train firefighters in the methods of fire suppression and fire fighting techniques, provided that training fires are not allowed to smolder after the training session has terminated. Prior to igniting any structure, the fire protection service must ensure that the structure does not contain any asbestos or asbestos-containing materials; batteries; stored chemicals such as pesticides, herbicides, fertilizers, paints, glues, sealers, tars, solvents, household cleaners, or photographic reagents; stored linoleum, plastics, rubber, tires, or insulated wire; or hazardous wastes. Before requesting permission from the

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Regional Administrator, the fire protection service must notify any appropriate Tribal air pollution authority and obtain any permissions or approvals required by the Tribe, and by any other governments with applicable laws and ordinances;

(5) Except during a burn ban under paragraphs (d)(2) and (d)(3) of this section and with prior permission from the Regional Administrator, one open outdoor fire each year to dispose of fireworks and associated packaging materials. Before requesting permission from the Regional Administrator, the owner or operator must notify any appropriate Tribal air pollution authority and obtain any permissions or approvals required by the Tribe, and by any other governments with applicable laws and ordinances;

(6) Except during a burn ban under paragraphs (d)(2) and (d)(3) of this section, open burning for the disposal of diseased animals or other material by order of a public health official.

(d) *What are the requirements for open burning?* (1) A person must not openly burn, or allow the open burning of, the following materials:

- (i) Garbage;
- (ii) Dead animals or parts of dead animals;
- (iii) Junked motor vehicles or any materials resulting from a salvage operation;
- (iv) Tires or rubber materials or products;
- (v) Plastics, plastic products, or styrofoam;
- (vi) Asphalt or composition roofing, or any other asphaltic material or product;
- (vii) Tar, tarpaper, petroleum products, or paints;
- (viii) Paper, paper products, or cardboard other than what is necessary to start a fire or that is generated at single-family residences or residential buildings with four or fewer dwelling units and is burned at the residential site;
- (ix) Lumber or timbers treated with preservatives;
- (x) Construction debris or demolition waste;
- (xi) Pesticides, herbicides, fertilizers, or other chemicals;
- (xii) Insulated wire;

- (xiii) Batteries;
- (xiv) Light bulbs;
- (xv) Materials containing mercury (e.g., thermometers);
- (xvi) Asbestos or asbestos-containing materials;
- (xvii) Pathogenic wastes;
- (xviii) Hazardous wastes; or
- (xix) Any material other than natural vegetation that normally emits dense smoke or noxious fumes when burned.

(2) Except for exempted fires set for cultural or traditional purposes, all open burning is prohibited whenever the Regional Administrator declares a burn ban due to deteriorating air quality. A burn ban may be declared whenever the Regional Administrator determines that air quality levels have exceeded, or are expected to exceed, 75% of any national ambient air quality standard for particulate matter, and these levels are projected to continue or reoccur over at least the next 24 hours.

(3) Except for exempted fires set for cultural or traditional purposes, all open burning is prohibited whenever the Regional Administrator issues an air stagnation advisory or declares an air pollution alert, air pollution warning, or air pollution emergency pursuant to §49.137 Rule for air pollution episodes.

(4) Nothing in this section exempts or excuses any person from complying with applicable laws and ordinances of local fire departments and other governmental jurisdictions.

(e) *Are there additional requirements that must be met?* (1) A person subject to this section must conduct open burning as follows:

- (i) All materials to be openly burned must be kept as dry as possible through the use of a cover or dry storage;
- (ii) Before igniting a burn, non-combustibles must be separated from the materials to be openly burned to the greatest extent practicable;
- (iii) Natural or artificially induced draft must be present, including the use of blowers or air curtain incinerators where practicable;
- (iv) To the greatest extent practicable, materials to be openly burned



must be separated from the grass or peat layer; and

(v) A fire must not be allowed to smolder.

(2) Except for exempted fires set for cultural or traditional purposes, a person must not initiate any open burning when:

(i) The Regional Administrator has declared a burn ban;

(ii) An air stagnation advisory has been issued or an air pollution alert, warning, or emergency has been declared by the Regional Administrator.

(3) Except for exempted fires set for cultural or traditional purposes, any person conducting open burning when such an advisory is issued or declaration is made must either immediately extinguish the fire, or immediately withhold additional material such that the fire burns down.

(f) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Air pollutant, ambient air, emission, open burning, particulate matter, PM<sub>10</sub>, PM<sub>2.5</sub>, Regional Administrator, stack, and uncombined water.

**§ 49.132 Rule for general open burning permits.**

(a) *What is the purpose of this section?* This section establishes a permitting program for open burning within the Indian reservation to control emissions of particulate matter and other noxious fumes to the atmosphere and ground-level concentrations of particulate matter.

(b) *Who is affected by this section?* This section applies to any person who conducts open burning.

(c) *What is exempted from this section?* The following open fires are exempted from this section:

(1) Outdoor fires set for cultural or traditional purposes;

(2) Fires set for cultural or traditional purposes within structures such as sweat houses or lodges;

(3) Fires set for recreational purposes, provided that no prohibited materials are burned;

(4) Forestry and silvicultural burning; and

(5) Agricultural burning.

(d) *What are the requirements for open burning?* (1) A person must apply for and obtain a permit for the open burn, have the permit available on-site during the open burn, and conduct the open burning in accordance with the terms and conditions of the permit.

(2) The date after which a person must apply for and obtain a permit under this section is identified in the implementation plan in subpart M of this part for the specific reservation where this section applies.

(3) A person must comply with the § 49.131 General rule for open burning or the EPA-approved Tribal open burning rule, as applicable.

(4) Nothing in this section exempts or excuses any person from complying with any applicable laws and ordinances of local fire departments or other governmental jurisdictions.

(e) *Are there additional requirements that must be met?* (1) A person subject to this section must submit an application to the Regional Administrator for each proposed open burn. An application must be submitted in writing at least one working day, and no earlier than five working days, prior to the requested date that the burn would be conducted, and must contain, at a minimum, the following information:

(i) Street address of the property upon that the proposed open burning will occur, or if there is no street address of the property, the legal description of the property.

(ii) Name, mailing address, and telephone number of the person who will be responsible for conducting the proposed open burning.

(iii) A plot plan showing the location of the proposed open burning in relation to the property lines and indicating the distances and directions of the nearest residential and commercial properties.

(iv) The type and quantity of materials proposed to be burned, including the estimated volume of material to be burned and the area over which burning will be conducted.

(v) A description of the measures that will be taken to prevent escaped burns, including but not limited to the availability of water.

(vi) The requested date when the proposed open burning would be conducted

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and the duration of the burn if it is more than one day.

(vii) Any other information specifically requested by the Regional Administrator.

(2) If the proposed open burning is consistent with this section and § 49.131 General rule for open burning, or the EPA-approved Tribal open burning rule, the Regional Administrator may issue a burn permit. The permit will authorize burning only for the requested date(s) and will include any conditions that the Regional Administrator determines are necessary to ensure compliance with this section, § 49.131 General rule for open burning or the EPA-approved Tribal open burning rule, and to protect the public health and welfare.

(3) When reviewing an application, the Regional Administrator will take into consideration relevant factors including, but not limited to, the size, duration, and location of the proposed open burn, the current and projected air quality conditions, the forecasted meteorological conditions, and other scheduled burning activities in the surrounding area. Where the Regional Administrator determines that the proposed open burning can be conducted without causing an adverse impact on air quality, a permit may be issued.

(4) The Regional Administrator, to the extent practical, will coordinate the issuance of open burning permits with the open burning permit programs of surrounding jurisdictions.

(f) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Agricultural burning, air pollutant, ambient air, emission, forestry or silvicultural burning, open burning, particulate matter, PM<sub>10</sub>, PM<sub>2.5</sub>, Regional Administrator, stack, and uncombined water.

### § 49.133 Rule for agricultural burning permits.

(a) *What is the purpose of this section?* This section establishes a permitting program for agricultural burning within the Indian reservation to control emissions of particulate matter and other noxious fumes to the atmosphere and ground-level concentrations of particulate matter.

(b) *Who is affected by this section?* This section applies to any person who conducts agricultural burning.

(c) *What are the requirements for agricultural burning?* (1) A person must apply for a permit to conduct an agricultural burn, obtain approval of the permit on the day of the burn, have the permit available onsite during the burn, and conduct the burn in accordance with the terms and conditions of the permit.

(2) The date after which a person must apply for and obtain approval of a permit under this section is identified in the implementation plan in subpart M of this part for the specific reservation where this section applies.

(3) A person must comply with § 49.131 General rule for open burning or the EPA-approved Tribal open burning rule, as applicable.

(4) Nothing in this section exempts or excuses any person from complying with any applicable laws and ordinances of local fire departments or other governmental jurisdictions.

(d) *Are there additional requirements that must be met?* (1) A person subject to this section must submit an application to the Regional Administrator for each proposed agricultural burn. An application must contain, at a minimum, the following information:

(i) Street address of the property upon which the proposed agricultural burning will occur or, if there is no street address of the property, the legal description of the property.

(ii) Name, mailing address, and telephone number of the applicant and the person who will be responsible for conducting the proposed agricultural burning.

(iii) A plot plan showing the location of each proposed agricultural burning area in relation to the property lines and indicating the distances and directions of the nearest residential, public, and commercial properties, roads, and other areas that could be impacted by the burning.

(iv) The type and quantity of agricultural wastes proposed to be burned, including the estimated weight of material to be burned and the area over which burning will be conducted.

(v) A description of the burning method(s) to be used (pile or stack

burn, open field or broadcast burn, windrow burn, mobile field sanitizer, etc.) and the amount of material to be burned with each method.

(vi) A description of the measures that will be taken to prevent escaped burns, including but not limited to the availability of water and plowed firebreaks.

(vii) The requested date(s) when the proposed agricultural burning would be conducted.

(viii) Any other information specifically requested by the Regional Administrator.

(2) If the proposed agricultural burning is consistent with this section and § 49.131 General rule for open burning, or the EPA-approved Tribal open burning rule, the Regional Administrator may approve the agricultural burning permit and authorize burning on the day burning is to be conducted after taking into consideration relevant factors including, but not limited to:

(i) The size, duration, and location of the proposed burn, the current and projected air quality conditions, the forecasted meteorological conditions, and other scheduled burning activities in the surrounding area; and

(ii) Other factors indicating whether or not the proposed agricultural burning can be conducted without causing an adverse impact on air quality.

(3) The Regional Administrator, to the extent practical, will consult with and coordinate approvals to burn with the open burning programs of surrounding jurisdictions.

(e) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Agricultural burning or agricultural burn, air pollutant, ambient air, emission, open burning, particulate matter, PM<sub>10</sub>, PM<sub>2.5</sub>, Regional Administrator, stack, and uncombined water.

**§ 49.134 Rule for forestry and silvicultural burning permits.**

(a) *What is the purpose of this section?* This section establishes a permitting program for forestry and silvicultural burning within the Indian reservation to control emissions of particulate matter and other noxious fumes to the

atmosphere and ground-level concentrations of particulate matter.

(b) *Who is affected by this section?* This section applies to any person who conducts forestry or silvicultural burning.

(c) *What are the requirements for forestry and silvicultural burning?* (1) A person must apply for a permit to conduct a forestry or silvicultural burn, obtain approval of the permit on the day of the burn, have the permit available on-site during the burn, and conduct the burn in accordance with the terms and conditions of the permit.

(2) The date after which a person must apply for and obtain approval of a permit under this section is identified in the implementation plan in subpart M of this part for the specific reservation where this section applies.

(3) A person must comply with § 49.131 General rule for open burning or the EPA-approved Tribal open burning rule, as applicable.

(4) Nothing in this section exempts or excuses any person from complying with any applicable laws and ordinances of local fire departments or other governmental jurisdictions.

(d) *Are there additional requirements that must be met?* (1) A person subject to this section must submit an application to the Regional Administrator for each proposed forestry or silvicultural burn. An application must contain, at a minimum, the following information:

(i) Street address of the property upon which the proposed forestry or silvicultural burning will occur or, if there is no street address of the property, the legal description of the property.

(ii) Name, mailing address, and telephone number of the person who will be responsible for conducting the proposed forestry or silvicultural burning.

(iii) A plot plan showing the location of the proposed forestry or silvicultural burning in relation to the property lines and indicating the distances and directions of the nearest residential, public, and commercial properties, roads, and other areas that could be affected by the burning.

(iv) The type and quantity of forestry or silvicultural residues proposed to be burned, including the estimated weight of material to be burned and the area over which burning will be conducted.

(v) A description of the burning method(s) to be used (pile burn, broadcast burn, windrow burn, understory burn, etc.) and the amount of material to be burned with each method.

(vi) A description of the measures that will be taken to prevent escaped burns, including but not limited to the availability of water and firebreaks.

(vii) The requested date(s) that the proposed forestry or silvicultural burning would be conducted.

(viii) Any other information specifically requested by the Regional Administrator.

(2) If the proposed forestry or silvicultural burning is consistent with this section and § 49.131 General rule for open burning, or the EPA-approved Tribal open burning rule, the Regional Administrator may approve the forestry or silvicultural burning permit and authorize burning on the day burning is to be conducted after taking into consideration relevant factors including, but not limited to:

(i) The size, duration, and location of the proposed burn, the current and projected air quality conditions, the forecasted meteorological conditions, and other scheduled burning activities in the surrounding area; and

(ii) Other factors indicating whether or not the proposed forestry or silvicultural burning can be conducted without causing an adverse impact on air quality.

(3) The Regional Administrator, to the extent practical, will consult with and coordinate approvals to burn with the open burning programs of surrounding jurisdictions.

(e) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Air pollutant, ambient air, emission, forestry or silvicultural burning, open burning, particulate matter, PM<sub>10</sub>, PM<sub>2.5</sub>, Regional Administrator, stack, and uncombined water.

**§ 49.135 Rule for emissions detrimental to public health or welfare.**

(a) *What is the purpose of this section?* This section is intended to prevent the emission of air pollutants from any air pollution source operating within the

Indian reservation from being detrimental to public health or welfare.

(b) *Who is affected by this section?* This section applies to any person who owns or operates an air pollution source.

(c) *What are the requirements for air pollution sources?* (1) A person must not cause or allow the emission of any air pollutants from an air pollution source, in sufficient quantities and of such characteristic and duration, that the Regional Administrator determines:

(i) Causes or contributes to a violation of any national ambient air quality standard; or

(ii) Is presenting an imminent and substantial endangerment to public health or welfare, or the environment.

(2) If the Regional Administrator makes either of the determinations in paragraph (c)(1) of this section, then the Regional Administrator may require the owner or operator of the source to install air pollution controls and/or to take reasonable precautions to reduce or prevent the emissions. If the Regional Administrator determines that the installation of air pollution controls and/or reasonable precautions are necessary, then the Regional Administrator will require the owner or operator to obtain a permit to construct or permit to operate for the source. The specific requirements will be established in the required permit to construct or permit to operate.

(3) Nothing in this section affects the ability of the Regional Administrator to issue an order pursuant to section 303 of the Act to require an owner or operator to immediately reduce or cease the emission of air pollutants.

(4) Nothing in this section shall be construed to impair any cause of action or legal remedy of any person, or the public, for injury or damages arising from the emission of any air pollutant in such place, manner, or amount as to constitute a common law nuisance.

(d) *What does someone subject to this section need to do?* A person subject to this section must comply with the terms and conditions of any permit to construct, permit to operate, or order issued by the Regional Administrator.

(e) *Definitions of terms used in this section.* The following terms that are used

in this section are defined in § 49.123 General provisions: Air pollutant, air pollution source, ambient air, emission, owner or operator, permit to construct, permit to operate, Regional Administrator, source, and stationary source.

§ 49.136 [Reserved]

§ 49.137 Rule for air pollution episodes.

(a) *What is the purpose of this section?* This section establishes procedures for addressing the excessive buildup of certain air pollutants during periods of stagnant air. This section is intended to prevent the occurrence of an air pollution emergency within the Indian reservation due to the effects of these air pollutants on human health.

(b) *Who is affected by this section?* This section applies to the Regional Administrator and any person who owns or operates an air pollution source within the Indian reservation.

(c) *What are the requirements of this section?*—(1) *Air pollution action level triggers.* Conditions justifying the declaration of an air pollution alert, air pollution warning, or air pollution emergency exist whenever the Regional Administrator determines that the accumulation of air pollutants in any place is approaching, or has reached, levels that could lead to a threat to human health. The following criteria will be used for making these determinations:

(i) *Air stagnation advisory.* An air stagnation advisory may be issued by the Regional Administrator whenever meteorological conditions over a large area are conducive to the buildup of air pollutants.

(ii) *Air pollution alert.* An air pollution alert may be declared by the Regional Administrator when any one of the following levels is reached, or is projected to be reached, at any monitoring site and the meteorological conditions are such that the level is expected to continue or reoccur over the next 24 hours.

(A) Particulate matter (PM<sub>10</sub>): 350 micrograms per cubic meter, 24-hour average;

(B) Carbon monoxide (CO): 17 milligrams per cubic meter (15 ppm), 8-hour average;

(C) Sulfur dioxide (SO<sub>2</sub>): 800 micrograms per cubic meter (0.3 ppm), 24-hour average;

(D) Ozone (O<sub>3</sub>): 400 micrograms per cubic meter (0.2 ppm), 1-hour average;

(E) Nitrogen dioxide (NO<sub>2</sub>): 1,130 micrograms per cubic meter (0.6 ppm), 1-hour average; and 282 micrograms per cubic meter (0.15 ppm), 24-hour average.

(iii) *Air pollution warning.* An air pollution warning may be declared by the Regional Administrator when any one of the following levels is reached, or is projected to be reached, at any monitoring site and the meteorological conditions are such that the level is expected to continue or reoccur over the next 24 hours.

(A) Particulate matter (PM<sub>10</sub>): 420 micrograms per cubic meter, 24-hour average;

(B) Carbon monoxide (CO): 34 milligrams per cubic meter (30 ppm), 8-hour average;

(C) Sulfur dioxide (SO<sub>2</sub>): 1,600 micrograms per cubic meter (0.6 ppm), 24-hour average;

(D) Ozone (O<sub>3</sub>): 800 micrograms per cubic meter (0.4 ppm), 1-hour average;

(E) Nitrogen dioxide (NO<sub>2</sub>): 2,260 micrograms per cubic meter (1.2 ppm), 1-hour average; and 565 micrograms per cubic meter (0.3 ppm), 24-hour average.

(iv) *Air pollution emergency.* An air pollution emergency may be declared by the Regional Administrator when any one of the following levels is reached, or is projected to be reached, at any monitoring site and the meteorological conditions are such that the level is expected to continue or reoccur over the next 24 hours.

(A) Particulate matter (PM<sub>10</sub>): 500 micrograms per cubic meter, 24-hour average;

(B) Carbon monoxide (CO): 46 milligrams per cubic meter (40 ppm), 8-hour average;

(C) Sulfur dioxide (SO<sub>2</sub>): 2,100 micrograms per cubic meter (0.8 ppm), 24-hour average;

(D) Ozone (O<sub>3</sub>): 1,000 micrograms per cubic meter (0.5 ppm), 1-hour average;

(E) Nitrogen dioxide (NO<sub>2</sub>): 3,000 micrograms per cubic meter (1.6 ppm),

1-hour average; and 750 micrograms per cubic meter (0.4 ppm), 24-hour average.

(v) *Termination.* Once declared, an air pollution alert, warning, or emergency will remain in effect until the Regional Administrator makes a new determination and declares a new level.

(2) *Announcements by the Regional Administrator.* The Regional Administrator will request that announcement of an air stagnation advisory, air pollution alert, air pollution warning, or air pollution emergency be broadcast on local television and radio stations in the affected area and posted on their websites. Announcements will also be posted on the EPA Region 10 website and, where possible, on the websites of Tribes within the affected area. These announcements will indicate that air pollution levels exist that could potentially be harmful to human health and indicate actions that people can take to reduce exposure. The announcements will also request voluntary actions to reduce emissions from sources of air pollutants as well as indicate that a ban on open burning is in effect.

(3) *Voluntary curtailment of emissions by sources.* Whenever the Regional Administrator declares an air stagnation advisory, air pollution alert, air pollution warning, or air pollution emergency, sources of air pollutants will be requested to take voluntary actions to reduce emissions. People should refrain from using their wood-stoves and fireplaces unless they are their sole source of heat. People should reduce their use of motor vehicles to the extent possible. Industrial sources should curtail operations or switch to a cleaner fuel if possible.

(4) *Mandatory curtailment of emissions by order of the Regional Administrator.* (i) Except for exempted fires set for cultural or traditional purposes, all open burning is prohibited whenever the Regional Administrator issues an air stagnation advisory or declares an air pollution alert, air pollution warning, or air pollution emergency. Except for exempted fires set for cultural or traditional purposes, all open burning is prohibited when a burn ban is declared pursuant to § 49.131 General rule for open burning or the EPA-approved Tribal open burning rule.

(ii) Except for exempted fires set for cultural or traditional purposes, any person conducting open burning when such an advisory is issued or declaration is made must either immediately extinguish the fire, or immediately withhold additional material such that the fire burns down.

(iii) During an air pollution warning or air pollution emergency, the Regional Administrator may issue an order to any air pollution source requiring such source to curtail or eliminate the emissions.

(d) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Air pollutant, air pollution source, ambient air, emission, fuel, motor vehicle, open burning, Regional Administrator, and source.

**§ 49.138 Rule for the registration of air pollution sources and the reporting of emissions.**

(a) *What is the purpose of this section?* This section allows the Regional Administrator to develop and maintain a current and accurate record of air pollution sources and their emissions within the Indian reservation.

(b) *Who is affected by this section?* This section applies to any person who owns or operates a part 71 source or an air pollution source that is subject to a standard established under section 111 or section 112 of the Federal Clean Air Act. This section also applies to any person who owns or operates any other air pollution source except those exempted in paragraph (c) of this section.

(c) *What is exempted from this section?* As provided in paragraph (b) of this section, this section does not apply to the following air pollution sources:

(1) Air pollution sources that do not have the potential to emit more than two tons per year of any air pollutant;

(2) Mobile sources;

(3) Single family residences, and residential buildings with four or fewer dwelling units;

(4) Air conditioning units used for human comfort that do not exhaust air pollutants into the atmosphere from any manufacturing or industrial process;

(5) Ventilating units used for human comfort that do not exhaust air pollutants into the atmosphere from any manufacturing or industrial process;

(6) Furnaces and boilers used exclusively for space heating with a rated heat input capacity of less than 400,000 British thermal units (Btu) per hour;

(7) Cooking of food, except for wholesale businesses that both cook and sell cooked food;

(8) Consumer use of office equipment and products;

(9) Janitorial services and consumer use of janitorial products;

(10) Maintenance and repair activities, except for air pollution sources engaged in the business of maintaining and repairing equipment;

(11) Agricultural activities and forestry and silvicultural activities, including agricultural burning and forestry and silvicultural burning; and

(12) Open burning.

(d) *What are the requirements of this section?* Any person who owns or operates an air pollution source subject to this section, except for part 71 sources, must register the source with the Regional Administrator and submit reports as specified in paragraph (e) of this section. Any person who owns or operates a part 71 source must submit reports as specified in paragraph (f) of this section. All registration information and reports must be submitted on forms provided by the Regional Administrator.

(e) *Are there additional requirements that must be met?* Any person who owns or operates an air pollution source subject to this section, except for part 71 sources, must register an air pollution source and submit reports as follows:

(1) *Initial registration.* The owner or operator of an air pollution source that exists on the effective date of this section must register the air pollution source with the Regional Administrator by no later than February 15, 2007. The owner or operator of a new air pollution source must register with the Regional Administrator within 90 days after beginning operation. Submitting an initial registration does not relieve the owner or operator from the requirement to obtain a permit to construct if the new air pollution source would be a new source or modification subject to

any Federal or Tribal permit to construct rule.

(2) *Annual registration.* After initial registration, the owner or operator of an air pollution source must re-register with the Regional Administrator by February 15 of each year. The annual registration must include all of the information required in the initial registration and must be updated to reflect any changes since the previous registration. For information that has not changed since the previous registration, the owner or operator may reaffirm in writing that the information previously furnished to the Regional Administrator is still correct.

(3) *Information to include in initial registration and annual registration.* Each initial registration and annual registration must include the following information if it applies:

(i) Name of the air pollution source and the nature of the business.

(ii) Street address, telephone number, and facsimile number of the air pollution source.

(iii) Name, mailing address, and telephone number of the owner or operator.

(iv) Name, mailing address, telephone number, and facsimile number of the local individual responsible for compliance with this section.

(v) Name and mailing address of the individual authorized to receive requests for data and information.

(vi) A description of the production processes, air pollution control equipment, and a related flow chart.

(vii) Identification of emission units and air pollutant-generating activities.

(viii) A plot plan showing the location of all emission units and air pollutant-generating activities. The plot plan must also show the property lines of the air pollution source, the height above grade of each emission release point, and the distance and direction to the nearest residential or commercial property.

(ix) Type and quantity of fuels, including the sulfur content of fuels, used on a daily, annual, and maximum hourly basis.

(x) Type and quantity of raw materials used or final product produced on a daily, annual, and maximum hourly basis.

(xi) Typical operating schedule, including number of hours per day, number of days per week, and number of weeks per year.

(xii) Estimates of the total actual emissions from the air pollution source for the following air pollutants: particulate matter, PM<sub>10</sub>, PM<sub>2.5</sub>, sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), volatile organic compounds (VOC), lead (Pb) and lead compounds, ammonia (NH<sub>3</sub>), fluorides (gaseous and particulate), sulfuric acid mist (H<sub>2</sub>SO<sub>4</sub>), hydrogen sulfide (H<sub>2</sub>S), total reduced sulfur (TRS), and reduced sulfur compounds, including all calculations for the estimates.

(xiii) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions.

(xiv) Any other information specifically requested by the Regional Administrator.

(4) *Procedure for estimating emissions.* The initial registration and annual registration must include an estimate of actual emissions taking into account equipment, operating conditions, and air pollution control measures. For an existing air pollution source that operated during the calendar year preceding the initial registration or annual registration submittal, the actual emissions are the actual rate of emissions for the preceding calendar year and must be calculated using the actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. For a new air pollution source that is submitting its initial registration, the actual emissions are the estimated actual rate of emissions for the current calendar year. The emission estimates must be based upon actual test data or, in the absence of such data, upon procedures acceptable to the Regional Administrator. Any emission estimates submitted to the Regional Administrator must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

- (i) Source-specific emission tests;
- (ii) Mass balance calculations;

(iii) Published, verifiable emission factors that are applicable to the source;

(iv) Other engineering calculations; or

(v) Other procedures to estimate emissions specifically approved by the Regional Administrator.

(5) *Report of relocation.* After initial registration, the owner or operator of an air pollution source must report any relocation of the source to the Regional Administrator in writing no later than 30 days prior to the relocation of the source. The report must update the information required in paragraphs (e)(3)(i) through (e)(3)(v) and (e)(3)(viii) of this section, and any other information required by paragraph (e)(3) of this section if it will change as a result of the relocation. Submitting a report of relocation does not relieve the owner or operator from the requirement to obtain a permit to construct if the relocation of the air pollution source would be a new source or modification subject to any Federal or Tribal permit to construct rule.

(6) *Report of change of ownership.* After initial registration, the owner or operator of an air pollution source must report any change of ownership to the Regional Administrator in writing within 90 days after the change in ownership is effective. The report must update the information required in paragraphs (e)(3)(i) through (e)(3)(v) of this section, and any other information required by paragraph (e)(3) of this section if it would change as a result of the change of ownership.

(7) *Report of closure.* Except for regular seasonal closures, after initial registration, the owner or operator of an air pollution source must submit a report of closure to the Regional Administrator in writing within 90 days after the cessation of all operations at the air pollution source.

(8) *Certification of truth, accuracy, and completeness.* All registrations and reports must include a certification signed by the owner or operator as to the truth, accuracy, and completeness of the information. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information are true, accurate, and complete.



(f) *Requirements for part 71 sources.* The owner or operator of a part 71 source must submit an annual registration report that includes the information required by paragraphs (e)(3) and (e)(4) of this section. This annual registration report must be submitted with the annual emission report and fee calculation worksheet required by part 71 (or by the source's part 71 permit if a different date is specified in the permit). The owner or operator may submit a single combined report provided that the combined report clearly identifies which emissions are the basis for the annual registration report, the part 71 annual emission report, and the part 71 fee calculation worksheet. The first annual registration report for a part 71 source shall be submitted for calendar year 2006, or for the calendar year that the source became subject to part 71, whichever is later.

(g) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Act, actual emissions, agricultural activities, air pollutant, air pollution source, ambient air, British thermal unit (Btu), emission, emission factor, emission unit, forestry or silvicultural activities, forestry or silvicultural burning, fuel, major source, marine vessel, mobile source, motor vehicle, new air pollution source, nonroad engine, nonroad vehicle, open burning, owner or operator, part 71 source, particulate matter, permit to construct, PM10, PM2.5, potential to emit, rated capacity, Regional Administrator, source, stack, stationary source, and uncombined water.

**§ 49.139 Rule for non-Title V operating permits.**

(a) *What is the purpose of this section?* This section establishes a permitting program to provide for the establishment of Federally-enforceable requirements for air pollution sources within the Indian reservation.

(b) *Who is affected by this section?* (1) This section applies to:

(i) The owner or operator of any air pollution source who wishes to obtain a Federally-enforceable limitation on

the source's actual emissions or potential to emit;

(ii) Any air pollution source for which the Regional Administrator determines that additional Federally-enforceable requirements are necessary to ensure compliance with the implementation plan; or

(iii) Any air pollution source for which the Regional Administrator determines that additional Federally-enforceable requirements are necessary to ensure the attainment and maintenance of any national ambient air quality standard or prevention of significant deterioration increment.

(2) To the extent allowed by 40 CFR part 71, or a Tribal operating permit program approved pursuant to 40 CFR part 70, a Title V operating permit may be used in lieu of an operating permit under this section to establish the limitations or requirements in paragraph (b)(1) of this section.

(c) *What are the procedures for obtaining an owner-requested operating permit?*

(1) The owner or operator of an air pollution source who wishes to obtain a Federally-enforceable limitation on the source's actual emissions or potential to emit must submit an application to the Regional Administrator requesting such limitation. The application must be submitted on forms provided by the Regional Administrator and contain the information specified in paragraph (d) of this section.

(2) Within 60 days after receipt of an application, the Regional Administrator will determine if it contains the information specified in paragraph (d) of this section and if so, will deem it complete for the purpose of preparing a draft permit to operate. If the Regional Administrator determines that the application is incomplete, it will be returned to the owner or operator along with a description of the necessary information that must be submitted for the application to be deemed complete.

(3) The Regional Administrator will prepare a draft permit to operate and a draft technical support document that describes the proposed limitation and its effect on the actual emissions and/or potential to emit of the air pollution source.

(4) The Regional Administrator will provide a copy of the draft permit to

operate and draft technical support document to the owner or operator of the air pollution source and will provide an opportunity for the owner or operator to meet with EPA and discuss the proposed limitations.

(5) The Regional Administrator will provide an opportunity for public comment on the draft permit to operate as follows:

(i) A copy of the draft permit to operate, the draft technical support document, the permit application, and all other supporting materials will be made available for public inspection in at least one location in the area affected by the air pollution source.

(ii) A notice will be made by prominent advertisement in a newspaper of general circulation in the area affected by the air pollution source of the availability of the draft permit to operate and supporting materials and of the opportunity to comment. Where possible, notices will also be made in the Tribal newspaper.

(iii) Copies of the notice will be provided to the owner or operator of the air pollution source, the Tribal governing body, and the Tribal, State, and local air pollution authorities having jurisdiction in areas outside of the Indian reservation potentially impacted by the air pollution source.

(iv) A 30-day period for submittal of public comments will be provided starting upon the date of publication of the notice. If requested, the Regional Administrator may hold a public hearing and/or extend the public comment period for up to an additional 30 days.

(6) After the close of the public comment period, the Regional Administrator will review all comments received and prepare a final permit to operate and final technical support document. The final technical support document will include a response to all comments received during the public comment period.

(7) The final permit to operate and final technical support document will be sent to the owner or operator of the air pollution source and will be made available at all of the locations where the draft permit was made available. In addition, the final permit to operate and final technical support document will be sent to all persons who provided

comments on the draft permit to operate.

(8) The final permit to operate will be a final agency action for purposes of administrative appeal and judicial review.

(d) *What must the owner or operator of an air pollution source include in an application for a Federally-enforceable limitation?* (1) The owner or operator of an air pollution source that wishes to obtain a Federally-enforceable limitation must submit to the Regional Administrator an application, on forms provided by the Regional Administrator, for a permit to operate that includes the following information:

(i) Name of the air pollution source and the nature of the business.

(ii) Street address, telephone number, and facsimile number of the air pollution source.

(iii) Name, mailing address, and telephone number of the owner or operator.

(iv) Name, mailing address, telephone number, and facsimile number of the local individual responsible for compliance with this section.

(v) Name and mailing address of the individual authorized to receive requests for data and information.

(vi) For each air pollutant and for all emission units and air pollutant-generating activities to be covered by a limitation:

(A) The proposed limitation and a description of its effect on actual emissions or the potential to emit. Proposed limitations may include, but are not limited to, emission limitations, production limits, operational restrictions, fuel or raw material specifications, and/or requirements for installation and operation of emission controls. Proposed limitations must have a reasonably short averaging period, taking into consideration the operation of the air pollution source and the methods to be used for demonstrating compliance.

(B) Proposed testing, monitoring, recordkeeping, and reporting requirements to be used to demonstrate and assure compliance with the proposed limitation.

(C) A description of the production processes and a related flow chart.

(D) Identification of emission units and air pollutant-generating activities.

(E) Type and quantity of fuels and/or raw materials used.

(F) Description and estimated efficiency of air pollution control equipment under present or anticipated operating conditions.

(G) Estimates of the current actual emissions and current potential to emit, including all calculations for the estimates.

(H) Estimates of the allowable emissions and/or potential to emit that would result from compliance with the proposed limitation, including all calculations for the estimates.

(vii) Any other information specifically requested by the Regional Administrator.

(2) Estimates of actual emissions must be based upon actual test data, or in the absence of such data, upon procedures acceptable to the Regional Administrator. Any emission estimates submitted to the Regional Administrator must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

(i) Source-specific emission tests;

(ii) Mass balance calculations;

(iii) Published, verifiable emission factors that are applicable to the source;

(iv) Other engineering calculations; or

(v) Other procedures to estimate emissions specifically approved by the Regional Administrator.

(3) All applications for a permit to operate must include a certification by the owner or operator as to the truth, accuracy, and completeness of the information. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information are true, accurate, and complete.

(e) *What are the procedures that the Regional Administrator will follow to require an operating permit?* (1) Whenever the Regional Administrator determines that additional Federally-enforceable requirements are necessary to ensure compliance with the implementation plan or to ensure the attainment and maintenance of any national ambient

air quality standard or prevention of significant deterioration increment, the owner or operator of the air pollution source will be so notified in writing.

(2) The Regional Administrator may require that the owner or operator provide any information that the Regional Administrator determines is necessary to establish such requirements in a permit to operate under this section.

(3) The Regional Administrator will prepare a draft permit to operate and a draft technical support document that describes the reasons and need for the proposed requirements.

(4) The Regional Administrator will provide a copy of the draft permit to operate and draft technical support document to the owner or operator of the air pollution source and will provide an opportunity for the owner or operator to meet with EPA and discuss the proposed requirements.

(5) The Regional Administrator will provide an opportunity for public comment on the draft permit to operate as follows:

(i) A copy of the draft permit to operate, the draft technical support document, and all other supporting materials will be made available for public inspection in at least one location in the area affected by the air pollution source.

(ii) A notice will be made by prominent advertisement in a newspaper of general circulation in the area affected by the air pollution source of the availability of the draft permit to operate and supporting materials and of the opportunity to comment. Where possible, notices will also be made in the Tribal newspaper.

(iii) Copies of the notice will be provided to the owner or operator of the air pollution source, the Tribal governing body, and the Tribal, State, and local air pollution authorities having jurisdiction in areas outside of the Indian reservation potentially impacted by the air pollution source.

(iv) A 30-day period for submittal of public comments will be provided starting upon the date of publication of the notice. If requested, the Regional Administrator may hold a public hearing and/or extend the public comment period for up to an additional 30 days.

(6) After the close of the public comment period, the Regional Administrator will review all comments received and prepare a final permit to operate and final technical support document, unless the Regional Administrator determines that additional requirements are not necessary to ensure compliance with the implementation plan or to ensure the attainment and maintenance of any national ambient air quality standard or prevention of significant deterioration increment. The final technical support document will include a response to all comments received during the public comment period.

(7) The final permit to operate and final technical support document will be sent to the owner or operator of the air pollution source and will be made available at all of the locations where the draft permit was made available. In addition, the final permit to operate and final technical support document will be sent to all persons who provided comments on the draft permit to operate.

(8) The final permit to operate will be a final agency action for purposes of administrative appeal and judicial review.

(f) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Act, actual emissions, air pollutant, air pollution source, allowable emissions, ambient air, emission, emission factor, Federally enforceable, implementation plan, owner or operator, potential to emit, and Regional Administrator.

**§§ 49.140–49.200 [Reserved]**

**Subpart D—Implementation Plans  
for Tribes—Region I**

**IMPLEMENTATION PLAN FOR THE MOHEGAN TRIBE OF INDIANS, CONNECTICUT**

**§ 49.201 Identification of plan.**

(a) *Purpose and scope.* This section contains the implementation plan for

the Mohegan Tribe of Indians, Connecticut. This plan consists of an area wide NO<sub>x</sub> emission limitation regulation submitted by the Mohegan Tribe on May 4, 2005, applicable to the reservation of The Mohegan Tribe of Indians of Connecticut.

(b) *Incorporation by reference.* (1) Material listed in paragraph (c) of this section was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the FEDERAL REGISTER. Entries in paragraph (c) of this section with EPA approval dates after August 13, 2009, will be incorporated by reference in the next update to the TIP compilation.

(2) EPA Region 1 certifies that the rules/regulations provided by EPA in the TIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated tribal rules/regulations which have been approved as part of the Tribal Implementation Plan as of August 13, 2009.

(3) Copies of the materials incorporated by reference may be inspected at the New England Regional Office of EPA at One Congress Street, Suite 1100, Boston, MA 02114-2023; the U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, MC 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 and the National Archives and Records Administration. If you wish to obtain material from the EPA Regional Office, please call 617-918-1653; for materials from the docket in EPA Headquarters Library, please call the Office of Air and Radiation docket at 202-566-1742. For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal-register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal-register/code_of_federal_regulations/ibr_locations.html).

(c) *EPA-approved regulations.*

EPA-APPROVED MOHEGAN TRIBE OF INDIANS OF CONNECTICUT REGULATIONS

Tribal citation	Title/subject	Tribal effective date	EPA approval date	Explanations
Mohegan Tribal Resolution. 2009–28 .....	Approval of Amended Tribal Air Program Area Wide NO <sub>x</sub> Emission Limitation Regulation.	02/18/2009	09/29/09, 74 FR 49327 .....	Mohegan Tribal Resolution 2009–28 includes the “Area Wide NO <sub>x</sub> Emission Limitation Regulation.”
Mohegan Tribal Gaming Authority Resolution MTGA 2009–07.	Confirmation and Approval of Amended Tribal Air Program “Area Wide NO <sub>x</sub> Emission Limitation Regulation.”.	2/18/2009	09/29/09, 74 FR 49327.	
Memorandum of Agreement.	Memorandum of Agreement dated December 26, 2006, between the Mohegan Tribe of Indians of Connecticut and the U.S. Environmental Protection Agency Region I.	12/26/06	11/14/07, 72 FR 63988..	

[72 FR 63989, Nov. 14, 2007, as amended at 74 FR 49329, Sept. 28, 2009]

§§ 49.202–49.470 [Reserved]

**Subpart E—Implementation Plans for Tribes—Region II**

IMPLEMENTATION PLAN FOR THE SAINT REGIS MOHAWK TRIBE

**§ 49.471 Identification of plan.**

(a) *Purpose and scope.* This section contains the approved implementation plan for the St. Regis Mohawk Tribe dated February 2004. The plan consists of programs and procedures that cover public participation, plan revisions, ambient air quality standards, emissions inventory, permitting, synthetic minor facilities, source surveillance, open burning, enforcement, review of state permits, regional haze planning, and reporting.

(b) *Incorporation by reference.* (1) Material listed in paragraph (c) of this section was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Mate-

rial is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the FEDERAL REGISTER.

(2) EPA Region II certifies that the rules/regulations provided by EPA in the TIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated tribal rules/regulations which have been approved as part of the Tribal Implementation Plan as of December 10, 2007.

(3) Copies of the materials incorporated by reference may be inspected at the Region II Office of EPA at 290 Broadway, 25th Floor, New York, NY 10007–1866; the U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, MC 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 and the National Archives and Records Administration. For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) EPA—approved regulations.

EPA-APPROVED ST. REGIS MOHAWK TRIBE REGULATIONS

Tribal citation	Title/subject	Tribal effective date	EPA approval date	Explanations
St. Regis Mohawk Tribe, Tribal Implementation Plan, version 3, Section 5.	Definitions .....	February 2004 .....	December 10, 2007, 72 FR 69618.	Subsections 9.6 and 9.7 are not part of the Federally approved TIP.
St. Regis Mohawk Tribe, Tribal Implementation Plan, version 3, Section 9.	Air Quality Standards ...	February 2004 .....	December 10, 2007, 72 FR 69618.	

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**EPA-APPROVED ST. REGIS MOHAWK TRIBE REGULATIONS—Continued**

Tribal citation	Title/subject	Tribal effective date	EPA approval date	Explanations
St. Regis Mohawk Tribe, Tribal Implementation Plan, version 3, Section 11.	General Permit Requirements.	February 2004 .....	December 10, 2007, 72 FR 69618.	
St. Regis Mohawk Tribe, Tribal Implementation Plan, version 3, Section 12.	Permits for Minor Facilities.	February 2004 .....	December 10, 2007, 72 FR 69618.	
St. Regis Mohawk Tribe, Tribal Implementation Plan, version 3, Section 13.	Synthetic Minor Facilities.	February 2004 .....	December 10, 2007, 72 FR 69618.	
St. Regis Mohawk Tribe, Tribal Implementation Plan, version 3, Section 14.	Source Surveillance .....	February 2004 .....	December 10, 2007, 72 FR 69618.	
TCR-2002-59 .....	Tribal Burn Regulation	February 2004 .....	December 10, 2007, 72 FR 69618.	
Memorandum of Agreement.	Memorandum of Agreement dated November 20, 2003, between the St. Regis Mohawk Tribe and the U.S. Environmental Protection Agency Region II.	11/20/2003 .....	December 10, 2007, 72 FR 69618.	

**§§ 49.472–49.680**

[72 FR 69620, Dec. 10, 2007]

**§§ 49.472–49.680 [Reserved]**

**Subpart F—Implementation Plans  
for Tribes—Region III**

**§§ 49.681–49.710 [Reserved]**

**Subpart G—Implementation Plans  
for Tribes—Region IV**

**§§ 49.711–49.920 [Reserved]**

**Subpart H—Implementation Plans  
for Tribes—Region V**

**§§ 49.921–49.1970 [Reserved]**

**Subpart I—Implementation Plans  
for Tribes—Region VI**

**§§ 49.1971–49.3920 [Reserved]**

**Subpart J—Implementation Plans  
for Tribes—Region VII**

**§§ 49.3921–49.4160 [Reserved]**

**Subpart K—Implementation Plans  
for Tribes—Region VIII**

**§§ 49.4161–49.5510 [Reserved]**

**Subpart L—Implementation Plans  
for Tribes—Region IX**

**§§ 49.5511–49.9860 [Reserved]**

**Subpart M—Implementation Plans  
for Tribes—Region X**

SOURCE: 65 FR 51433, Aug. 23, 2000, unless otherwise noted.

IMPLEMENTATION PLAN FOR THE BURNS  
PAIUTE TRIBE OF THE BURNS PAIUTE  
INDIAN COLONY OF OREGON

SOURCE: 70 FR 18110, Apr. 8, 2005, unless otherwise noted.

**§ 49.9861 Identification of plan.**

This section and §§ 49.9862 through 49.9890 contain the implementation plan for the Burns Paiute Tribe of the Burns Paiute Indian Colony. This plan consists of a combination of Tribal

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rules and measures and Federal regulations and measures which apply within the Reservation of the Burns Paiute Indian Colony.

**§ 49.9862 Approval status.**

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Burns Paiute Indian Colony.

**§ 49.9863 Legal authority. [Reserved]**

**§ 49.9864 Source surveillance. [Reserved]**

**§ 49.9865 Classification of regions for episode plans.**

The air quality control region which encompasses the Reservation of the Burns Paiute Indian Colony is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM <sub>10</sub> ) .....	II
Sulfur oxides .....	III

**§ 49.9866 Contents of implementation plan.**

The implementation plan for the Reservation of the Burns Paiute Indian Colony consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

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(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.9867 EPA-approved Tribal rules and plans. [Reserved]

### § 49.9868 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.9869 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.9870 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Burns Paiute Indian Colony:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.9871–49.9890 [Reserved]

IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE CHEHALIS RESERVATION, WASHINGTON

SOURCE: 70 FR 18110, Apr. 8, 2005, unless otherwise noted.

### § 49.9891 Identification of plan.

This section and §§ 49.9892 through 49.9920 contain the implementation plan for the Confederated Tribes of the Chehalis Reservation. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Chehalis Reservation.

### § 49.9892 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Chehalis Reservation.

### § 49.9893 Legal authority. [Reserved]

### § 49.9894 Source surveillance. [Reserved]

### § 49.9895 Classification of regions for episode plans.

The air quality control region which encompasses the Chehalis Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	II

### § 49.9896 Contents of implementation plan.

The implementation plan for the Chehalis Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.



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(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

**§ 49.9897 EPA-approved Tribal rules and plans. [Reserved]**

**§ 49.9898 Permits to construct.**

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

**§ 49.9899 Permits to operate.**

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

**§ 49.9900 Federally-promulgated regulations and Federal implementation plans.**

The following regulations are incorporated and made part of the implementation plan for the Chehalis Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

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**§§ 49.9901–49.9920 [Reserved]**

IMPLEMENTATION PLAN FOR THE COEUR D’ALENE TRIBE OF THE COEUR D’ALENE RESERVATION, IDAHO

SOURCE: 70 FR 18111, Apr. 8, 2005, unless otherwise noted.

**§ 49.9921 Identification of plan.**

This section and §§ 49.9922 through 49.9950 contain the implementation plan for the Coeur D’Alene Tribe of the Coeur D’Alene Reservation. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Coeur D’Alene Reservation.

**§ 49.9922 Approval status.**

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Coeur D’Alene Reservation.

**§ 49.9923 Legal authority. [Reserved]**

**§ 49.9924 Source surveillance. [Reserved]**

**§ 49.9925 Classification of regions for episode plans.**

The air quality control region which encompasses the Coeur D’Alene Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	I
Sulfur oxides .....	II

**§ 49.9926 Contents of implementation plan.**

The implementation plan for the Coeur D’Alene Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

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(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.9927 EPA-approved Tribal rules and plans. [Reserved]

### § 49.9928 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.9929 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.9930 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Coeur D'Alene Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

NOTE TO § 49.9930: EPA entered into a Partial Delegation of Administrative Authority with the Coeur d'Alene Tribe on August 26, 2008 for the rules listed in paragraphs (b), (g), and (i) of this section.

[70 FR 18111, Apr. 8, 2005, as amended at 73 FR 61742, Oct. 17, 2008]

### §§ 49.9931–49.9950 [Reserved]

### IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION, WASHINGTON

SOURCE: 70 FR 18111, Apr. 8, 2005, unless otherwise noted.

### § 49.9951 Identification of plan.

This section and §§ 49.9952 through 49.9980 contain the implementation plan for the Confederated Tribes of the Colville Reservation. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Colville Reservation.

### § 49.9952 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Colville Reservation.

### § 49.9953 Legal authority. [Reserved]

### § 49.9954 Source surveillance. [Reserved]

### § 49.9955 Classification of regions for episode plans.

The air quality control region which encompasses the Colville Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	III

### § 49.9956 Contents of implementation plan.

The implementation plan for the Colville Reservation consists of the following rules, regulations, and measures:

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- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.127 Rule for woodwaste burners.
- (f) Section 49.128 Rule for limiting particulate matter emissions from wood products industry sources.
- (g) Section 49.129 Rule for limiting emissions of sulfur dioxides.
- (h) Section 49.130 Rule for limiting sulfur in fuels.
- (i) Section 49.131 General rule for open burning.
- (j) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (k) Section 49.137 Rule for air pollution episodes.
- (l) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (m) Section 49.139 Rule for non-Title V operating permits.

## § 49.9957 EPA-approved Tribal rules and plans. [Reserved]

## § 49.9958 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

## § 49.9959 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR part 71 in accordance with the requirements of § 49.139.

## § 49.9960 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Colville Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.

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- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.127 Rule for woodwaste burners.
- (f) Section 49.128 Rule for limiting particulate matter emissions from wood products industry sources.
- (g) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (h) Section 49.130 Rule for limiting sulfur in fuels.
- (i) Section 49.131 General rule for open burning.
- (j) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (k) Section 49.137 Rule for air pollution episodes.
- (l) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (m) Section 49.139 Rule for non-Title V operating permits.

## §§ 49.9961–49.9980 [Reserved]

IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE COOS, LOWER UMPQUA AND SIUSLAW INDIANS OF OREGON

SOURCE: 70 FR 18112, Apr. 8, 2005, unless otherwise noted.

## § 49.9981 Identification of plan.

This section and §§ 49.9982 through 49.10010 contain the implementation plan for the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Reservation of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians.

## § 49.9982 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians.

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### § 49.9983 Legal authority. [Reserved]

### § 49.9984 Source surveillance. [Reserved]

### § 49.9985 Classification of regions for episode plans.

The air quality control region which encompasses the Reservation of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	III

### § 49.9986 Contents of implementation plan.

The implementation plan for the Reservation of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

### § 49.9987 EPA-approved Tribal rules and plans. [Reserved]

### § 49.9988 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major

stationary sources pursuant to 40 CFR 52.21.

### § 49.9989 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.9990 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.9991–49.10010 [Reserved]

#### IMPLEMENTATION PLAN FOR THE COQUILLE TRIBE OF OREGON

SOURCE: 70 FR 18113, Apr. 8, 2005, unless otherwise noted.

### § 49.10011 Identification of plan.

This section and § 49.10012 through 49.10040 contain the implementation plan for the Coquille Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Reservation of the Coquille Tribe.

## § 49.10012

### § 49.10012 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Coquille Tribe.

### § 49.10013 Legal authority. [Reserved]

### § 49.10014 Source surveillance. [Reserved]

### § 49.10015 Classification of regions for episode plans.

The air quality control region which encompasses the Reservation of the Coquille Tribe is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	III

### § 49.10016 Contents of implementation plan.

The implementation plan for the Reservation of the Coquille Tribe consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

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### § 49.10017 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10018 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10019 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10020 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Coquille Tribe:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10021–49.10040 [Reserved]

#### IMPLEMENTATION PLAN FOR THE COW CREEK BAND OF UMPQUA INDIANS OF OREGON

SOURCE: 70 FR 18113, Apr. 8, 2005, unless otherwise noted.

### § 49.10041 Identification of plan.

This section and §§ 49.10042 through 49.10100 contain the implementation

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plan for the Cow Creek Band of Umpqua Indians. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Reservation of the Cow Creek Band of Umpqua Indians.

### § 49.10042 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Cow Creek Band of Umpqua Indians.

### § 49.10043 Legal authority. [Reserved]

### § 49.10044 Source surveillance. [Reserved]

### § 49.10045 Classification of regions for episode plans.

The air quality control region which encompasses the Reservation of the Cow Creek Band of Umpqua Indians is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	III

### § 49.10046 Contents of implementation plan.

The implementation plan for the Reservation of the Cow Creek Band of Umpqua Indians consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10047 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10048 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10049 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10050 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Cow Creek Band of Umpqua Indians:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

**§§ 49.10051–49.10100**

**40 CFR Ch. I (7–1–10 Edition)**

**§§ 49.10051–49.10100 [Reserved]**

**IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON**

SOURCE: 70 FR 18114, Apr. 8, 2005, unless otherwise noted.

**§ 49.10101 Identification of plan.**

This section and §§49.10102 through 49.10130 contain the implementation plan for the Confederated Tribes of the Grand Ronde Community. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Reservation of the Confederated Tribes of the Grand Ronde Community.

**§ 49.10102 Approval status.**

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Confederated Tribes of the Grand Ronde Community.

**§ 49.10103 Legal authority. [Reserved]**

**§ 49.10104 Source surveillance. [Reserved]**

**§ 49.10105 Classification of regions for episode plans.**

The air quality control region which encompasses the Reservation of the Confederated Tribes of the Grand Ronde Community is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	I
Nitrogen dioxide .....	III
Ozone .....	I
Particulate matter (PM10) .....	I
Sulfur oxides .....	IA

**§ 49.10106 Contents of implementation plan.**

The implementation plan for the Reservation of the Confederated Tribes of the Grand Ronde Community consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

**§ 49.10107 EPA-approved Tribal rules and plans. [Reserved]**

**§ 49.10108 Permits to construct.**

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

**§ 49.10109 Permits to operate.**

Permits to operate are required for sources not subject to 40 CFR part 71 in accordance with the requirements of § 49.139.

**§ 49.10110 Federally-promulgated regulations and Federal implementation plans.**

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Confederated Tribes of the Grand Ronde Community:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

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(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10111–49.10130 [Reserved]

#### IMPLEMENTATION PLAN FOR THE HOH INDIAN TRIBE OF THE HOH INDIAN RESERVATION, WASHINGTON

SOURCE: 70 FR 18114, Apr. 8, 2005, unless otherwise noted.

#### §49.10131 Identification of plan.

This section and §§49.10132 through 49.10160 contain the implementation plan for the Hoh Indian Tribe of the Hoh Indian Reservation. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Hoh Indian Reservation.

#### §49.10132 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Hoh Indian Reservation.

#### §49.10133 Legal authority. [Reserved]

#### §49.10134 Source surveillance. [Reserved]

#### §49.10135 Classification of regions for episode plans.

The air quality control region which encompasses the Hoh Indian Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	II

#### §49.10136 Contents of implementation plan.

The implementation plan for the Hoh Indian Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

#### §49.10137 EPA-approved Tribal rules and plans. [Reserved]

#### §49.10138 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

#### §49.10139 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of §49.139.

#### §49.10140 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Hoh Indian Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.



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(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10141–49.10160 [Reserved]

#### IMPLEMENTATION PLAN FOR THE JAMESTOWN S'KLALLAM TRIBE OF WASHINGTON

SOURCE: 70 FR 18115, Apr. 8, 2005, unless otherwise noted.

#### § 49.10161 Identification of plan.

This section and §§ 49.10162 through 49.10190 contain the implementation plan for the Jamestown S'Klallam Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Reservation of the Jamestown S'Klallam Tribe.

#### § 49.10162 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Jamestown S'Klallam Tribe.

#### § 49.10163 Legal authority. [Reserved]

#### § 49.10164 Source surveillance. [Reserved]

#### § 49.10165 Classification of regions for episode plans.

The air quality control region which encompasses the Reservation of the Jamestown S'Klallam Tribe is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	II

#### § 49.10166 Contents of implementation plan.

The implementation plan for the Reservation of the Jamestown S'Klallam

Tribe consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

#### § 49.10167 EPA-approved Tribal rules and plans. [Reserved]

#### § 49.10168 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

#### § 49.10169 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

#### § 49.10170 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Jamestown S'Klallam Tribe:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

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(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10171–49.10190 [Reserved]

#### IMPLEMENTATION PLAN FOR THE KALISPEL INDIAN COMMUNITY OF THE KALISPEL RESERVATION, WASHINGTON

SOURCE: 70 FR 18116, Apr. 8, 2005, unless otherwise noted.

### § 49.10191 Identification of plan.

This section and §§ 49.1019192 through 49.10220 contain the implementation plan for the Kalispel Indian Community. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Kalispel Reservation.

### § 49.10192 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Kalispel Reservation.

### § 49.10193 Legal authority. [Reserved]

### § 49.10194 Source surveillance. [Reserved]

### § 49.10195 Classification of regions for episode plans.

The air quality control region which encompasses the Kalispel Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM <sub>10</sub> ) .....	II
Sulfur oxides .....	III

### § 49.10196 Contents of implementation plan.

The implementation plan for the Kalispel Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10197 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10198 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10199 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10200 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Kalispel Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

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- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

**§§ 49.10201–49.10220 [Reserved]**

**IMPLEMENTATION PLAN FOR THE  
KLAMATH INDIAN TRIBE OF OREGON**

SOURCE: 70 FR 18116, Apr. 8, 2005, unless otherwise noted.

**§ 49.10221 Identification of plan.**

This section and §§49.10222 through 49.10250 contain the implementation plan for the Klamath Indian Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Reservation of the Klamath Indian Tribe.

**§ 49.10222 Approval status.**

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Klamath Indian Tribe.

**§ 49.10223 Legal authority. [Reserved]**

**§ 49.10224 Source surveillance. [Reserved]**

**§ 49.10225 Classification of regions for episode plans.**

The air quality control region which encompasses the Reservation of the Klamath Indian Tribe is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III

Pollutant	Classification
Particulate matter (PM10) .....	II
Sulfur oxides .....	III

**§ 49.10226 Contents of implementation plan.**

The implementation plan for the Reservation of the Klamath Indian Tribe consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

**§ 49.10227 EPA-approved Tribal rules and plans. [Reserved]**

**§ 49.10228 Permits to construct.**

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

**§ 49.10229 Permits to operate.**

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

**§ 49.10230 Federally-promulgated regulations and Federal implementation plans.**

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Klamath Indian Tribe:

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(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10231–49.10250 [Reserved]

#### IMPLEMENTATION PLAN FOR THE KOOTENAI TRIBE OF IDAHO

SOURCE: 70 FR 18117, Apr. 8, 2005, unless otherwise noted.

### § 49.10251 Identification of plan.

This section and §§ 49.10252 through 49.10280 contain the implementation plan for the Kootenai Tribe of Idaho. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Reservation of the Kootenai Tribe of Idaho.

### § 49.10252 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Kootenai Tribe of Idaho.

### § 49.10253 Legal authority. [Reserved]

### § 49.10254 Source surveillance. [Reserved]

### § 49.10255 Classification of regions for episode plans.

The air quality control region which encompasses the Reservation of the

Kootenai Tribe of Idaho is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM <sub>10</sub> ) .....	I
Sulfur oxides .....	III

### § 49.10256 Contents of implementation plan.

The implementation plan for the Reservation of the Kootenai Tribe of Idaho consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10257 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10258 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10259 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

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### § 49.10260 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Kootenai Tribe of Idaho:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10261–49.10280 [Reserved]

IMPLEMENTATION PLAN FOR THE LOWER ELWHA TRIBAL COMMUNITY OF THE LOWER ELWHA RESERVATION, WASHINGTON

SOURCE: 70 FR 18117, Apr. 8, 2005, unless otherwise noted.

### § 49.10281 Identification of plan.

This section and §§ 49.10282 through 49.10310 contain the implementation plan for the Lower Elwha Tribal Community. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Lower Elwha Reservation.

### § 49.10282 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Lower Elwha Reservation.

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### § 49.10283 Legal authority. [Reserved]

### § 49.10284 Source surveillance. [Reserved]

### § 49.10285 Classification of regions for episode plans.

The air quality control region which encompasses the Lower Elwha Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM <sub>10</sub> ) .....	II
Sulfur oxides .....	II

### § 49.10286 Contents of implementation plan.

The implementation plan for the Lower Elwha Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10287 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10288 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

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### § 49.10289 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10290 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Lower Elwha Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10291–49.10310 [Reserved]

### IMPLEMENTATION PLAN FOR THE LUMMI TRIBE OF THE LUMMI RESERVATION, WASHINGTON

SOURCE: 70 FR 18118, Apr. 8, 2005, unless otherwise noted.

### § 49.10311 Identification of plan.

This section and §§49.10312 through 49.10340 contain the implementation plan for the Lummi Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Lummi Reservation.

### § 49.10312 Approval status.

There are currently no EPA-approved Tribal rules or measures in the imple-

mentation plan for the Lummi Reservation.

### § 49.10313 Legal authority. [Reserved]

### § 49.10314 Source surveillance. [Reserved]

### § 49.10315 Classification of regions for episode plans.

The air quality control region which encompasses the Lummi Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	II

### § 49.10316 Contents of implementation plan.

The implementation plan for the Lummi Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10317 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10318 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major

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stationary sources pursuant to 40 CFR 52.21.

### § 49.10319 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10320 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Lummi Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10321–49.10340 [Reserved]

IMPLEMENTATION PLAN FOR THE MAKAH INDIAN TRIBE OF THE MAKAH INDIAN RESERVATION, WASHINGTON

SOURCE: 70 FR 18119, Apr. 8, 2005, unless otherwise noted.

### § 49.10341 Identification of plan.

This section and §§ 49.10342 through 49.10370 contain the implementation plan for the Makah Indian Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Makah Indian Reservation.

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### § 49.10342 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Makah Indian Reservation.

### § 49.10343 Legal authority. [Reserved]

### § 49.10344 Source surveillance. [Reserved]

### § 49.10345 Classification of regions for episode plans.

The air quality control region which encompasses the Makah Indian Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM <sub>10</sub> ) .....	II
Sulfur oxides .....	II

### § 49.10346 Contents of implementation plan.

The implementation plan for the Makah Indian Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

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## §49.10376

### §49.10347 EPA-approved Tribal rules and plans. [Reserved]

### §49.10348 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### §49.10349 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of §49.139.

### §49.10350 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Makah Indian Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

### §§49.10351–49.10370 [Reserved]

IMPLEMENTATION PLAN FOR THE MUCKLESHOOT INDIAN TRIBE OF THE MUCKLESHOOT RESERVATION, WASHINGTON

SOURCE: 70 FR 18119, Apr. 8, 2005, unless otherwise noted.

### §49.10371 Identification of plan.

This section and §§49.10372 through 49.10400 contain the implementation plan for the Muckleshoot Indian Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Muckleshoot Reservation.

### §49.10372 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Muckleshoot Reservation.

### §49.10373 Legal authority. [Reserved]

### §49.10374 Source surveillance. [Reserved]

### §49.10375 Classification of regions for episode plans.

The air quality control region which encompasses the Muckleshoot Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	I
Nitrogen dioxide .....	III
Ozone .....	I
Particulate matter (PM10) .....	I
Sulfur oxides .....	IA

### §49.10376 Contents of implementation plan.

The implementation plan for the Muckleshoot Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.



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(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

## § 49.10377 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10378 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10379 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

## § 49.10380 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Muckleshoot Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

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## §§ 49.10381–49.10400 [Reserved]

### IMPLEMENTATION PLAN FOR THE NEZ PERCE TRIBE OF IDAHO

SOURCE: 70 FR 18120, Apr. 8, 2005, unless otherwise noted.

### § 49.10401 Identification of plan.

This section and §§ 49.10402 through 49.10430 contain the implementation plan for the Nez Perce Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Nez Perce Reservation, as described in the 1863 Nez Perce Treaty.

### § 49.10402 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Nez Perce Reservation.

### § 49.10403 Legal authority. [Reserved]

### § 49.10404 Source surveillance. [Reserved]

### § 49.10405 Classification of regions for episode plans.

The air quality control region which encompasses the Nez Perce Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM <sub>10</sub> ) .....	I
Sulfur oxides .....	III

### § 49.10406 Contents of implementation plan.

The implementation plan for the Nez Perce Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.127 Rule for woodwaste burners.

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(f) Section 49.128 Rule for limiting particulate matter emissions from wood products industry sources.

(g) Section 49.129 Rule for limiting emissions of sulfur dioxides.

(h) Section 49.130 Rule for limiting sulfur in fuels.

(i) Section 49.131 General Rule for open burning.

(j) Section 49.132 Rule for general open burning permits.

(k) Section 49.133 Rule for agricultural burning permits.

(l) Section 49.134 Rule for forestry and silvicultural burning permits.

(m) Section 49.135 Rule for emissions detrimental to public health or welfare.

(n) Section 49.137 Rule for air pollution episodes.

(o) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(p) Section 49.139 Rule for non-Title V operating permits.

### **§ 49.10407 EPA-approved Tribal rules and plans. [Reserved]**

### **§ 49.10408 Permits to construct.**

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### **§ 49.10409 Permits to operate.**

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### **§ 49.10410 Federally-promulgated regulations and Federal implementation plans.**

The following regulations are incorporated and made part of the implementation plan for the Nez Perce Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.127 Rule for woodwaste burners.

(f) Section 49.128 Rule for limiting particulate matter emissions from wood products industry sources.

(g) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(h) Section 49.130 Rule for limiting sulfur in fuels.

(i) Section 49.131 General rule for open burning.

(j) Section 49.132 Rule for general open burning permits.

(k) Section 49.133 Rule for agricultural burning permits.

(l) Section 49.134 Rule for forestry and silvicultural burning permits.

(m) Section 49.135 Rule for emissions detrimental to public health or welfare.

(n) Section 49.137 Rule for air pollution episodes.

(o) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(p) Section 49.139 Rule for non-Title V operating permits.

NOTE TO § 49.10410: EPA entered into a Partial Delegation of Administrative Authority Agreement with the Nez Perce Tribe on June 27, 2005 for the rules listed in paragraphs (b), (i), (j), (k), (l) and (n) of this section.

[70 FR 18120, Apr. 8, 2005, as amended at 70 FR 54639, Sept. 16, 2005]

### **§ 49.10411 Permits for general open burning, agricultural burning, and forestry and silvicultural burning.**

(a) Beginning June 7, 2005, a person must apply for and obtain a permit under § 49.132 Rule for general open burning permits.

(b) Beginning June 7, 2005, a person must apply for and obtain approval of a permit under § 49.133 Rule for agricultural burning permits.

(c) Beginning June 7, 2005, a person must apply for and obtain approval of a permit under § 49.134 Rule for forestry and silvicultural burning permits.

### **§§ 49.10412–49.10430 [Reserved]**

IMPLEMENTATION PLAN FOR THE NISQUALLY INDIAN TRIBE OF THE NISQUALLY RESERVATION, WASHINGTON

SOURCE: 70 FR 18120, Apr. 8, 2005, unless otherwise noted.

## § 49.10431

### § 49.10431 Identification of plan.

This section and §§ 49.10432 through 49.10460 contain the implementation plan for the Nisqually Indian Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Nisqually Reservation.

### § 49.10432 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Nisqually Reservation.

### § 49.10433 Legal authority. [Reserved]

### § 49.10434 Source surveillance. [Reserved]

### § 49.10435 Classification of regions for episode plans.

The air quality control region which encompasses the Nisqually Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	II

### § 49.10436 Contents of implementation plan.

The implementation plan for the Nisqually Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.

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(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10437 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10438 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10439 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10440 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Nisqually Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

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## § 49.10470

### §§ 49.10441–49.10460 [Reserved]

#### IMPLEMENTATION PLAN FOR THE NOOKSACK INDIAN TRIBE OF WASHINGTON

SOURCE: 70 FR 18121, Apr. 8, 2005, unless otherwise noted.

#### § 49.10461 Identification of plan.

This section and §§ 49.10462 through 49.10490 contain the implementation plan for the Nooksack Indian Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Reservation of the Nooksack Indian Tribe.

#### § 49.10462 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Nooksack Indian Tribe.

#### § 49.10463 Legal authority. [Reserved]

#### § 49.10464 Source surveillance. [Reserved]

#### § 49.10465 Classification of regions for episode plans.

The air quality control region which encompasses the Reservation of the Nooksack Indian Tribe is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM <sub>10</sub> ) .....	II
Sulfur oxides .....	II

#### § 49.10466 Contents of implementation plan.

The implementation plan for the Reservation of the Nooksack Indian Tribe consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

#### § 49.10467 EPA-approved Tribal rules and plans. [Reserved]

#### § 49.10468 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

#### § 49.10469 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

#### § 49.10470 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Nooksack Indian Tribe:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

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(k) Section 49.139 Rule for non-Title V operating permits.

**§§ 49.10471–49.10490 [Reserved]**

IMPLEMENTATION PLAN FOR THE PORT GAMBLE INDIAN COMMUNITY OF THE PORT GAMBLE RESERVATION, WASHINGTON

SOURCE: 70 FR 18122, Apr. 8, 2005, unless otherwise noted.

**§ 49.10491 Identification of plan.**

This section and §§ 49.10492 through 49.10520 contain the implementation plan for the Port Gamble Indian Community. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Port Gamble Reservation.

**§ 49.10492 Approval status.**

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Port Gamble Reservation.

**§ 49.10493 Legal authority. [Reserved]**

**§ 49.10494 Source surveillance. [Reserved]**

**§ 49.10495 Classification of regions for episode plans.**

The air quality control region which encompasses the Port Gamble Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	I
Nitrogen dioxide .....	III
Ozone .....	I
Particulate matter (PM10) .....	I
Sulfur oxides .....	IA

**§ 49.10496 Contents of implementation plan.**

The implementation plan for the Port Gamble Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

**§ 49.10497 EPA-approved Tribal rules and plans. [Reserved]**

**§ 49.10498 Permits to construct.**

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

**§ 49.10499 Permits to operate.**

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

**§ 49.10500 Federally-promulgated regulations and Federal implementation plans.**

The following regulations are incorporated and made part of the implementation plan for the Port Gamble Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.

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(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10501–49.10520 [Reserved]

#### IMPLEMENTATION PLAN FOR THE PUYALLUP TRIBE OF THE PUYALLUP RESERVATION, WASHINGTON

SOURCE: 70 FR 18122, Apr. 8, 2005, unless otherwise noted.

### § 49.10521 Identification of plan.

This section and §§ 49.10522 through 49.10550 contain the implementation plan for the Puyallup Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply to trust and restricted lands within the 1873 Survey Area of the Puyallup Reservation (the Puyallup Reservation), consistent with the Puyallup Tribe of Indians Land Claims Settlement Act, ratified by Congress in 1989 (25 U.S.C. 1773).

### § 49.10522 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the lands in trust that are within the Puyallup Reservation.

### § 49.10523 Legal authority. [Reserved]

### § 49.10524 Source surveillance. [Reserved]

### § 49.10525 Classification of regions for episode plans.

The air quality control region which encompasses the lands in trust that are within the Puyallup Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	I
Nitrogen dioxide .....	III
Ozone .....	I
Particulate matter (PM <sub>10</sub> ) .....	I
Sulfur oxides .....	IA

### § 49.10526 Contents of implementation plan.

The implementation plan for the lands in trust that are within the Puyallup Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10527 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10528 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10529 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10530 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the land in trust are within the Puyallup Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

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- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

**§§ 49.10531–49.10550 [Reserved]**

**IMPLEMENTATION PLAN FOR THE QUILEUTE TRIBE OF THE QUILEUTE RESERVATION, WASHINGTON**

SOURCE: 70 FR 18123, Apr. 8, 2005, unless otherwise noted.

**§ 49.10551 Identification of plan.**

This section and §§ 49.10552 through 49.10580 contain the implementation plan for the Quileute Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Quileute Reservation.

**§ 49.10552 Approval status.**

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Quileute Reservation.

**§ 49.10553 Legal authority. [Reserved]**

**§ 49.10554 Source surveillance. [Reserved]**

**§ 49.10555 Classification of regions for episode plans.**

The air quality control region which encompasses the Quileute Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III

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Pollutant	Classification
Particulate matter (PM <sub>10</sub> ) .....	II
Sulfur oxides .....	II

**§ 49.10556 Contents of implementation plan.**

The implementation plan for the Quileute Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

**§ 49.10557 EPA-approved Tribal rules and plans. [Reserved]**

**§ 49.10558 Permits to construct.**

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

**§ 49.10559 Permits to operate.**

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

**§ 49.10560 Federally-promulgated regulations and Federal implementation plans.**

The following regulations are incorporated and made part of the implementation plan for the Quileute Reservation:

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(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10561–49.10580 [Reserved]

#### IMPLEMENTATION PLAN FOR THE QUINULT TRIBE OF THE QUINULT RESERVATION, WASHINGTON

SOURCE: 70 FR 18123, Apr. 8, 2005, unless otherwise noted.

### § 49.10581 Identification of plan.

This section and §§ 49.10582 through 49.10640 contain the implementation plan for the Quinault Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Quinault Reservation.

### § 49.10582 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Quinault Reservation.

### § 49.10583 Legal authority. [Reserved]

### § 49.10584 Source surveillance. [Reserved]

### § 49.10585 Classification of regions for episode plans.

The air quality control region which encompasses the Quinault Reservation

is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	II

### § 49.10586 Contents of implementation plan.

The implementation plan for the Quinault Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10587 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10588 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10589 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.



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### § 49.10590 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Quinault Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

NOTE TO § 49.10590: EPA entered into a Partial Delegation of Administrative Authority with the Quinault Indian Nation on October 4, 2007 for the rules listed in paragraphs (b), (g), and (i) of this section.

[70 FR 18123, Apr. 8, 2005, as amended at 73 FR 18162, Apr. 3, 2008]

### §§ 49.10591–49.10640 [Reserved]

#### IMPLEMENTATION PLAN FOR THE SAUK-SUIATTLE INDIAN TRIBE OF WASHINGTON

SOURCE: 70 FR 18124, Apr. 8, 2005, unless otherwise noted.

### § 49.10641 Identification of plan.

This section and §§ 49.10642 through 49.10670 contain the implementation plan for the Sauk-Suiattle Indian Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Reservation of the Sauk-Suiattle Tribe.

### § 49.10642 Approval status.

There are currently no EPA-approved Tribal rules or measures in the imple-

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mentation plan for the Reservation of the Sauk-Suiattle Tribe.

### § 49.10643 Legal authority. [Reserved]

### § 49.10644 Source surveillance. [Reserved]

### § 49.10645 Classification of regions for episode plans.

The air quality control region which encompasses the Reservation of the Sauk-Suiattle Tribe is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	I
Nitrogen dioxide .....	III
Ozone .....	I
Particulate matter (PM <sub>10</sub> ) .....	I
Sulfur oxides .....	IA

### § 49.10646 Contents of implementation plan.

The implementation plan for the Reservation of the Sauk-Suiattle Tribe consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10647 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10648 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major

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stationary sources pursuant to 40 CFR 52.21.

### §49.10649 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of §49.139.

### §49.10650 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Sauk-Suiattle Tribe:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§49.10651–49.10670 [Reserved]

### IMPLEMENTATION PLAN FOR THE SHOALWATER BAY TRIBE OF THE SHOALWATER BAY INDIAN RESERVATION, WASHINGTON

SOURCE: 70 FR 18125, Apr. 8, 2005, unless otherwise noted.

### §49.10671 Identification of plan.

This section and §§49.10672 through 49.10700 contain the implementation plan for the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures

which apply within the Shoalwater Bay Indian Reservation.

### §49.10672 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Shoalwater Bay Indian Reservation.

### §49.10673 Legal authority. [Reserved]

### §49.10674 Source surveillance. [Reserved]

### §49.10675 Classification of regions for episode plans.

The air quality control region which encompasses the Shoalwater Bay Indian Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	II

### §49.10676 Contents of implementation plan.

The implementation plan for the Shoalwater Bay Indian Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

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### § 49.10677 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10678 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10679 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10680 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Shoalwater Bay Indian Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10681–49.10700 [Reserved]

### IMPLEMENTATION PLAN FOR THE SHOSHONE-BANNOCK TRIBES OF THE FORT HALL INDIAN RESERVATION OF IDAHO

### § 49.10701 Identification of plan.

This section and §§ 49.10702 through 49.10730 contain the implementation plan for the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation. This plan consists of a combination of

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Tribal rules and measures and Federal regulations and measures which apply within the Fort Hall Indian Reservation.

[70 FR 18125, Apr. 8, 2005]

### § 49.10702 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Fort Hall Indian Reservation.

[70 FR 18125, Apr. 8, 2005]

### § 49.10703 Legal authority. [Reserved]

### § 49.10704 Source surveillance. [Reserved]

### § 49.10705 Classification of regions for episode plans.

The air quality control region which encompasses the Fort Hall Indian Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	I
Sulfur oxides .....	II

[70 FR 18125, Apr. 8, 2005]

### § 49.10706 Contents of implementation plan.

The implementation plan for the Fort Hall Indian Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.

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(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.10711 Federal Implementation Plan for the Astaris-Idaho LLC Facility (formerly owned by FMC Corporation) in the Fort Hall PM-10 nonattainment Area.

[70 FR 18125, Apr. 8, 2005]

### §49.10707 EPA-approved tribal rules and plans. [Reserved]

### §49.10708 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### §49.10709 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of §49.139.

[70 FR 18126, Apr. 8, 2005]

### §49.10710 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Fort Hall Indian Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

(l) Section 49.10711 Federal Implementation Plan for the Astaris-Idaho LLC Facility (formerly owned by FMC Corporation) in the Fort Hall PM-10 Nonattainment Area.

[70 FR 18126, Apr. 8, 2005]

### §49.10711 Federal Implementation Plan for the Astaris-Idaho LLC Facility (formerly owned by FMC Corporation) in the Fort Hall PM-10 Nonattainment Area.

(a) *Applicability.* This section applies to the owner(s) or operator(s) of the Astaris-Idaho LLC's elemental phosphorus facility located on the Fort Hall Indian Reservation in Idaho, including any new owner(s) or operator(s) in the event of a change in ownership or operation of the Astaris-Idaho facility.

(b) *Definitions.* The terms used in this section retain the meaning accorded them under the Clean Air Act, except as follows:

*Astaris-Idaho or Astaris-Idaho facility* means all of the pollutant-emitting activities that comprise the elemental phosphorus plant owned by or under the common control of Astaris-Idaho LLC in Township 6 south, Range 33 east, Sections 12, 13, and 14, and that lie within the exterior boundaries of the Fort Hall Indian Reservation, in Idaho, including, without limitation, all buildings, structures, facilities, installations, material handling areas, storage piles, roads, staging areas, parking lots, mechanical processes and related areas, and other processes and related areas. For purposes of this section, the term "Astaris-Idaho" or "Astaris-Idaho facility" shall not include pollutant emitting activities located on lands outside the exterior boundaries of the Fort Hall Indian Reservation.

*Bag leak detection guidance* means Office of Air Quality Planning and Standards (OAQPS): Fabric Filter Bag Leak Detection Guidance, EPA 454/R-98-015 (Sept. 1997).

*Begin actual construction* means, in general, initiation of physical on-site construction activities on a source which are of a permanent nature. Such activities include, but are not limited to, installation of building supports

and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in the method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

*Certified observer* means a visual emissions observer who has been properly certified using the initial certification and periodic semi-annual recertification procedures of 40 CFR part 60, appendix A, Method 9.

*Construction* means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of a source) which would result in a change in actual emissions.

*Emergency* means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator of the Astaris-Idaho facility, including acts of God, which requires immediate corrective action to restore normal operation. An emergency shall not include events caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

*Emission limitation or emission standard* means a requirement which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operations or maintenance procedures to assure continuous emission reduction.

*EPA* means United States Environmental Protection Agency, Region 10.

*Excess emissions* means emissions of an air pollutant in excess of an emission limitation.

*Excursion* means a departure from a parameter range approved under paragraphs (e)(3) or (g)(1) of this section, consistent with any averaging period specified for averaging the results of monitoring.

*Fugitive emissions* means those emissions that do not actually pass through a stack, chimney, vent, or other functionally equivalent opening.

*Malfunction* means any sudden and unavoidable breakdown of process or

control equipment. A sudden breakdown which could have been avoided by better operation and maintenance is not a malfunction.

*Method 5* is the reference test method described in 40 CFR part 60, appendix A, conducted in accordance with the requirements of this section.

*Method 9* is the reference test method described in 40 CFR part 60, appendix A.

*Methods 201, 201A, and 202* are the reference test methods described in 40 CFR part 51, appendix M, conducted in accordance with the requirements of this section.

*Mini-flush* means the process of flushing elemental phosphorus, which has solidified in the secondary condenser, to the elevated secondary condenser flare or to the ground flare, and thus into the atmosphere.

*Modification* means any physical change in or a change in the method of operation of, an existing source which increases the amount of particulate matter emitted by that source. The following shall not, by themselves, be considered modifications:

(1) Maintenance, repair, and replacement which the Regional Administrator determines to be routine for the particular source;

(2) An increase in production rate of an existing source, if that increase can be accomplished without a physical change to the source or the Astaris-Idaho facility;

(3) An increase in the hours of operation of an existing source, if that increase can be accomplished without a physical change to the source or the Astaris-Idaho facility;

(4) Use of an alternative fuel or raw material, if the existing source is capable of accommodating that alternative without a physical change to the source or the Astaris-Idaho facility; or

(5) The addition, replacement, or use of any system or device whose primary function is the reduction of an air pollutant, except when an emissions control system is removed or replaced by a system which the Regional Administrator determines to be less environmentally beneficial.

*Monitoring malfunction* means any sudden, infrequent, not reasonably preventable failure of the monitoring to

provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not monitoring malfunctions.

*O&M plan* means an operation and maintenance plan developed by Astaris-Idaho and submitted to EPA in accordance with paragraph (e)(8) of this section.

*Opacity* means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

*Opacity action level* means the level of opacity of emissions from a source requiring the owner or operator of the Astaris-Idaho facility to take prompt corrective action to minimize emissions, including without limitation those actions described in the approved operations and maintenance plan.

*Owner or operator* means any person who owns, leases, operates, controls, or supervises the Astaris-Idaho facility or any portion thereof.

*Particulate matter* means any airborne finely-divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

*PM-10 or PM-10 emissions* means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten micrometers emitted to the ambient air as measured by an applicable reference method such as Method 201, 201A, or 202, of 40 CFR Part 51, appendix M, or an equivalent or alternative method specifically approved by the Regional Administrator.

*Regional Administrator* means the Regional Administrator, EPA Region 10, or a duly designated representative of the Regional Administrator.

*Road* means access and haul roads, driveways or established vehicle paths, permanent or temporary, which are graded, constructed, used, reconstructed, improved, or maintained for use in vehicle movement throughout the Astaris-Idaho facility.

*Shutdown* means the cessation of operation of a source for any purpose.

*Slag Pit Area* means the area of the Astaris-Idaho facility immediately bordering the south side of the furnace building extending out 100 yards.

*Source* means any building, structure, facility, installation, material handling area, storage pile, road, staging

area, parking lot, mechanical process or related area, or other process or related area which emits or may emit particulate matter.

*Startup* means the setting in operation of a source for any purpose.

*Title V permit* means an operating permit issued under 40 CFR part 70 or 71.

*Tribes* means the Shoshone-Bannock Tribes.

*Visible emissions* means the emission of pollutants into the atmosphere, excluding uncombined condensed water vapor (steam), that is observable by the naked eye.

*Visual observation* means the continuous observation of a source for the presence of visible emissions for a period of ten consecutive minutes conducted in accordance with section 5 of EPA Method 22, 40 CFR part 60, appendix A, by a person who meets the training guidelines described in section 1 of Method 22.

(c) *Emission limitations and work practice requirements.* (1)(i) Except as otherwise provided in paragraphs (c)(1)(ii), (c)(1)(iii), and (c)(2) of this section, there shall be no visible emissions from any location at the Astaris-Idaho facility at any time, as determined by a visual observation.

(ii) Emissions from the following equipment, activities, processes, or sources shall not exceed 20% opacity over a six minute average. Method 9, of 40 CFR part 60, appendix A, is the reference test method for this requirement.

(A) Brazing, welding, and welding equipment and oxygen-hydrogen cutting torches;

(B) Plant upkeep, including routine housekeeping, preparation for and painting of structures;

(C) Grinding, sandblasting, and cleaning operations that are not part of a routine operation or a process at the Astaris-Idaho facility;

(D) Cleaning and sweeping of streets and paved surfaces;

(E) Lawn and landscaping activities;

(F) Repair and maintenance activities;

(G) Landfill operations;

(H) Laboratory vent stacks; and

(I) Pond piping discharges.

(iii) Except as otherwise provided in paragraph (c)(1)(ii) of this section,

emissions from equipment, activities, processes, or sources not identified in Table 1 to this section shall not exceed 10% opacity over a six minute average provided that Astaris-Idaho has complied with the requirements of paragraph (c)(11) of this section and provided further that a more stringent opacity limit has not been established for the source in this section. Method 9, 40 CFR Part 60, appendix A, is the reference test method for this requirement.

(2) For each source identified in Column II of Table 1 to this section, the owner or operator of the Astaris-Idaho facility shall comply with the emission limitations and work practice requirements for that source established in Column III of Table 1 to this section.

(3) The opacity limits for the following fugitive emission sources, which are also identified in Column II of Table 1 to this section, apply to adding of material to, taking of material from, reforming, or otherwise disturbing the pile: main shale pile (Table 1 of this section, source 2), emergency/contingency raw ore shale pile (Table 1 of this section, source 3), stacker and reclaimer (Table 1 of this section, source 4), recycle material pile (Table 1 of this section, source 8b), nodule pile (Table 1 of this section, source 11), and screened shale fines pile (Table 1 of this section, source 14).

(4)(i) Except as provided in paragraph (c)(4)(ii) of this section, beginning November 1, 2000, the following activities shall be prohibited:

(A) The discharge of molten slag from furnaces or slag runners onto the ground, pit floors (whether dressed with crushed slag or not), or other non-mobile permanent surface.

(B) The digging of solid slag in the slag pit area or the loading of slag into transport trucks in the slag pit area.

(ii) The prohibition set forth in paragraph (c)(4)(i) of this section shall not apply to the lining of slag pots and the handling (including but not limited to loading, crushing, or digging) of cold slag for purposes of the lining of slag pots.

(5)(i) Beginning January 1, 2001, no furnace gas shall be burned in the existing elevated secondary condenser

flare or the existing ground flare (Table 1 of this section, source 26a).

(ii) Until December 31, 2000, the owner or operator of the Astaris-Idaho facility shall take the following measures to reduce PM-10 emissions from mini-flushes and to ensure there is no bias toward conducting mini-flushes during night-time hours.

(A) Mini-flushes shall be limited to no more than 50 minutes per day (based on a monthly average) beginning January 1, 1999. Failure to meet this limit for any given calendar month will be construed as a separate violation for each day during that month that mini-flushes lasted more than 50 minutes. The monthly average for any calendar month shall be calculated by summing the duration (in actual minutes) of each mini-flush during that month and dividing by the number of days in that month.

(B)(1) No mini-flush shall be conducted at any time unless one of the following operating parameters is satisfied:

(i) The flow rate of recirculated phosphy water is equal to or less than 1800 gallons per minute; or

(ii) The secondary condenser outlet temperature is equal to or greater than 36 degrees Centigrade.

(2) The prohibition set forth in paragraph (c)(5)(ii)(B)(1) of this section shall not apply during periods of malfunction or emergency, provided the owner or operator of the Astaris-Idaho facility complies with the requirements of paragraph (c)(9) of this section.

(6) At all times, including periods of startup, shutdown, malfunction, or emergency, the owner or operator of the Astaris-Idaho facility shall, to the extent practicable, maintain and operate each source of PM-10 at the Astaris-Idaho facility, including without limitation those sources identified in Column II of Table 1 to this section and associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not

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limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(7) Maintaining operation of a source within approved parameter ranges, promptly taking corrective action, and otherwise following the work practice, monitoring, record keeping, and reporting requirements of this section do not relieve the owner or operator of the Astaris-Idaho facility from the obligation to comply with applicable emission limitations and work practice requirements at all times.

(8) An affirmative defense to a penalty action brought for emissions in excess of an emission limitation shall be available if the excess emissions were due to startup or shutdown and all of the following conditions are met:

(i) The owner or operator of the Astaris-Idaho facility notifies EPA and the Tribes in writing of any startup or shutdown that is expected to cause excess emissions. The notification shall be given as soon as possible, but no later than 48 hours prior to the start of the startup or shutdown, unless the owner or operator demonstrates to EPA's satisfaction that a shorter advanced notice was necessary. The notice shall identify the expected date, time, and duration of the excess emissions event, the source involved in the excess emissions event, and the type of excess emissions event.

(ii) The periods of excess emissions that occurred during startup or shutdown were short and infrequent and could not have been prevented through careful planning and design.

(iii) The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

(iv) If the excess emissions were caused by a bypass (an intentional diversion of control equipment), then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(v) At all times, the facility was operated in a manner consistent with good practice for minimizing emissions.

(vi) The frequency and duration of operation in startup or shutdown mode

was minimized to the maximum extent practicable.

(vii) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality.

(viii) All emission monitoring systems were kept in operation if at all possible.

(ix) The owner or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence.

(x) The owner or operator of the Astaris-Idaho facility submitted notice of the startup or shutdown to EPA and the Tribes within 48 hours of the time when emission limitations were exceeded due to startup or shutdown. This notice fulfills the requirement of paragraph (g)(5) of this section. This notice must contain a description of the startup or shutdown, any steps taken to mitigate emissions, and corrective actions taken.

(xi) No exceedance of the 24-hour PM-10 National Ambient Air Quality Standard, 40 CFR 50.6(a) was recorded on any monitor located within the Fort Hall PM-10 nonattainment area that regularly reports information to the Aerometric Information Retrieval System-Air Quality Subsystem, as defined under 40 CFR 58.1(p), on any day for which the defense of startup or shutdown is asserted.

(xii) In any enforcement proceeding, the owner or operator of the Astaris-Idaho facility has the burden of proof on all requirements of this paragraph (c)(8).

(9) An affirmative defense to a penalty action brought for emissions in excess of an emission limitation shall be available if the excess emissions were due to an emergency or malfunction and all of the following conditions are met:

(i) The excess emissions were caused by a sudden, unavoidable breakdown of technology, beyond the control of the owner or operator of the Astaris-Idaho facility.

(ii) The excess emissions;

(A) Did not stem from any activity or event that could have been foreseen and avoided or planned for; and



(B) Could not have been avoided by better operation and maintenance practices.

(iii) To the maximum extent practicable the air pollution control equipment or processes were maintained and operated in a manner consistent with good practice for minimizing emissions.

(iv) Repairs were made in an expeditious fashion when the operator knew or should have known that applicable emission limitations were being exceeded. Off-shift labor and overtime must have been utilized, to the extent practicable, to ensure that such repairs were made as expeditiously as practicable.

(v) The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions.

(vi) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality.

(vii) All emission monitoring systems were kept in operation if at all possible.

(viii) The owner or operator's actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence.

(ix) The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

(x) The owner or operator of the Astaris-Idaho facility submitted notice of the emergency or malfunction to EPA and the Tribes within 48 hours of the time when emission limitations were exceeded due to the emergency or malfunction. This notice fulfills the requirement of paragraph (g)(5) of this section. This notice must contain a description of the emergency or malfunction, any steps taken to mitigate emissions, and corrective actions taken.

(xi) No exceedance of the 24-hour PM-10 National Ambient Air Quality Standard, 40 CFR 50.6(a), was recorded on any monitor located within the Fort Hall PM-10 nonattainment area that regularly reports information to the Aerometric Information Retrieval System-Air Quality Subsystem, as defined under 40 CFR 58.1(p), on any day for

which the defense of emergency or malfunction is asserted.

(xii) In any enforcement proceeding, the owner or operator of the Astaris-Idaho facility has the burden of proof on all requirements of this paragraph (c)(9).

(10) For each source identified in Column II of Table 2 to this section, the owner or operator of the Astaris-Idaho facility shall take appropriate actions to reduce visible emissions from the source if opacity exceeds the opacity action level for that source identified in Column III of Table 2 of this section. Such actions shall be commenced as soon as possible but not to exceed 24 hours after an exceedance of the opacity action level is first identified and shall be completed as soon as possible. Such actions shall include, but not be limited to, those actions identified in the O&M plan for the source. Exceedance of an opacity action level does not constitute a violation of this section, but failure to take appropriate corrective action as identified in this paragraph (c)(10) does constitute a violation of this section.

(11) The owner or operator of the Astaris-Idaho facility shall notify EPA prior to the construction of a new source of PM-10 at the Astaris-Idaho facility or the modification of an existing source at the Astaris-Idaho facility in a manner that increases emissions of PM-10 as follows:

(i) Such notification shall be submitted to EPA at least 90 days prior to commencement of the construction or modification.

(ii) Such notification shall include the following information:

(A) A description of the source, including location of the process and associated control equipment, and any modification thereto;

(B) An estimate of potential PM-10 emissions from the source on both a 24-hour and annual basis, without consideration of any proposed air pollution control equipment;

(C) The expected daily hours of operation of the source, including any seasonal variation, and an estimate of actual PM-10 emissions from the source on both a 24-hour and annual basis, considering the effect of any proposed air pollution control equipment; and

(D) A description of any PM-10 control technology to be implemented at the source along with an analysis of alternative control technologies considered but rejected.

(iii) Any source identified in this section shall continue to be subject to the requirements of this section notwithstanding the modification of the source.

(iv) The requirements of this paragraph (c)(11) are in addition to any other requirements to obtain a permit under the Clean Air Act.

(v) This paragraph (c)(11) shall cease to apply if either of the following events occur:

(A) EPA promulgates a minor new source review program for PM-10 that applies to the Astaris-Idaho facility; or

(B) The Tribes promulgate a minor new source review program for PM-10 that applies to the Astaris-Idaho facility and EPA approves the Tribes' program under of this part.

(vi) If, after receipt of the notice referred to in this paragraph (c)(11), EPA notifies Astaris-Idaho in writing that a 90 day delay in the commencement of construction or modification is not required, Astaris-Idaho may proceed with the commencement of the construction or modification as described in the notice, subject to the other requirements of this section.

(d) *Reference test methods.* (1) For each source identified in Column II of Table 1 to this section, the reference test method for the corresponding emission limitation in Column III of Table 1 to this section for that source is identified in Column IV of Table 1 to this section. For each source identified in Column II of Table 2 to this section, the reference test method for the corresponding opacity action level in Column III of Table 2 to this section for that source is identified in Column IV of Table 2 to this section.

(2) When Method 201/201A or Methods 201/201A and 202 of 40 CFR Part 60, appendix A, are specified as the reference test methods, the testing shall be conducted in accordance with the identified test methods and the following additional requirements:

(i) Each test shall consist of three runs, with each run a minimum of one hour.

(ii) Method 202 shall be run concurrently with Method 201 or Method 201A. Unless Method 202 is specifically designated as part of the reference test method, Method 202 shall be performed on each source for informational purposes only and the results from the Method 202 test shall not be included in determining compliance with the mass emission limit for the source.

(iii) The source shall be operated at a capacity of at least 90% of maximum during all tests unless the Regional Administrator determines in writing that other operating conditions are representative of normal operations.

(iv) Only regular operating staff may adjust the processes or emission control device parameters during a performance test or within two hours prior to the tests. Any operating adjustments made during a performance test, which are a result of consultation during the tests with source testing personnel, equipment vendors, or other consultants may render the source test invalid.

(v) For all reference tests, the sampling site and minimum number of sampling points shall be selected according to EPA Method 1 (40 CFR part 60, appendix A).

(vi) EPA Methods 2, 2C, 2D, 3, 3A, and 4 (40 CFR part 60, appendix A) shall be used, as appropriate, for determining mass emission rates.

(vii) The mass emission rate of PM-10 shall be determined as follows:

(A)(I) Where Method 201/201A is identified as the reference test method, the mass emission rate of PM-10 shall be determined by taking the results of the Method 201/201A test and then multiplying by the average hourly volumetric flow rate for the run.

(2) Where Methods 201/201A and 202 are identified as the reference test methods, the mass emission rate of PM-10 shall be determined by first adding the PM-10 concentrations from Methods 201/201A and 202, and then multiplying by the average hourly volumetric flow rate for the run.

(B) The average of the three required runs shall be compared to the emission standard for purposes of determining compliance.

(viii) Two of the three runs from a source test of each Medusa-Andersen

stack on the furnace building (Table 1 of this section, sources 18d, 18e, 18f, and 18g) shall include at least 20 minutes of slag tapping and a third run shall include at least 20 minutes of metal tapping.

(ix) At least one of the three runs from a source test of the excess CO burner (Table 1 of this section, source 26b) shall be conducted during either a mini-flush or hot-flush that lasts for at least 30 minutes.

(3) Method 5 shall be used in place of Method 201 or 201A for the calciner scrubbers (Table 1 of this section, source 9a) and any other sources with entrained water drops. In such case, all the particulate matter measured by Method 5 must be counted as PM-10, and the testing shall be conducted in accordance with paragraph (d)(2) of this section.

(4) Method 5 may be used as an alternative to Method 201 or 201A for a particular point source, provided that all of the particulate measured by Method 5 is counted as PM-10 and the testing is conducted in accordance with paragraph (d)(2) of this section.

(5)(i) An alternative reference test method or a deviation from a reference test method identified in this section may be approved as follows:

(A) The owner or operator of the Astaris-Idaho facility must submit a written request to the Regional Administrator at least 60 days before the performance test is scheduled to begin which includes the reasons why the alternative or deviation is needed and the rationale and data to demonstrate that the alternative test method or deviation from the reference test method:

(1) Provides equal or improved accuracy and precision as compared to the specified reference test method; and

(2) Does not decrease the stringency of the standard as compared to the specified reference test method.

(B) If requested by EPA, the demonstration referred to in paragraph (d)(5)(i)(A) of this section must use Method 301 in 40 CFR part 63, appendix A to validate the alternative test method or deviation.

(C) The Regional Administrator must approve the request in writing.

(ii) Until the Regional Administrator has given written approval to use an

alternative test method or to deviate from the reference test method, the owner or operator of the Astaris-Idaho facility is required to use the reference test method when conducting a performance test pursuant to paragraph (e)(1) of this section.

(6) For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any requirement of this section, nothing in this section shall preclude the use, including the exclusive use, of any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or reference test or procedure had been performed.

(e) *Monitoring and additional work practice requirements.* (1) The owner or operator of the Astaris-Idaho facility shall conduct a performance test to measure PM-10 emissions as follows:

(i) The owner or operator of the Astaris-Idaho facility shall conduct a performance test to measure PM-10 emissions from each of the following sources on an annual basis using the specified reference test methods: east shale baghouse (Table 1 of this section, source 5a), middle shale baghouse (Table 1 of this section, source 6a), west shale baghouse (Table 1 of this section, source 7a), calciner cooler vents (Table 1 of this section, source 10), north nodule discharge baghouse (Table 1 of this section, source 12a), south nodule discharge baghouse (Table 1 of this section, source 12b), proportioning building-east nodule baghouse (Table 1 of this section, source 15a), proportioning building-west nodule baghouse (Table 1 of this section, source 15b), nodule stockpile baghouse (Table 1 of this section, source 16a), dust silo baghouse (Table 1 of this section, source 17a), furnace building-east baghouse (Table 1 of this section, source 18a), furnace building-west baghouse (Table 1 of this section, source 18b), furnace #1, #2, #3, and #4—Medusa-Andersen scrubbers (Table 1 of this section, sources 18d, 18e, 18f and 18g), coke handling baghouse (Table 1 of this section, source 20a), and phos dock-Andersen scrubber (Table 1 of this section, source 21a).

(A) The first annual test for each source shall be completed within 16 months of August 23, 2000. Subsequent annual tests shall be completed within 12 months of the most recent previous test.

(B) If, after conducting annual source tests for a particular source for two consecutive years, the emissions from that source are less than 80% of the applicable emission limit, then the frequency of source testing for that source may be reduced to every other year. The frequency of source testing shall revert to annually if the emissions from any source test on the source are greater than or equal to 80% of the applicable emission limit.

(ii) The owner or operator of the Astaris-Idaho facility shall conduct a performance test to measure PM-10 emissions from the calciner scrubbers (Table 1 of this section, source 9a) and the excess CO burner (Table 1 of this section, source 26b) on a semi-annual basis using the specified reference test methods.

(A) The first semi-annual performance test for each source shall be conducted within 90 days after the date on which the PM-10 emission limitations become applicable to the source. Subsequent semi-annual tests shall be completed within 6 months of the most recent previous test.

(B) If, after conducting semi-annual source tests for the calciners or the excess CO burner for two consecutive years, the emissions from that source during each of the four previous consecutive semi-annual tests are less than 80% of the applicable emission limit, then the frequency of source testing for the source may be reduced to annual testing. The frequency of source testing shall revert to semi-annually if the emissions from any source test on the source are greater than or equal to 80% of the applicable emission limit.

(iii) The owner or operator of the Astaris-Idaho facility shall conduct a performance test to determine the control efficiency of the calciner scrubbers (Table 1 of this section, source 9a) and the excess CO burner (Table 1 of this section, source 26b) using the specified reference test methods as follows:

(A) A performance test for the calciner scrubbers shall be conducted within 90 days after the date on which the PM-10 emission limitations become applicable to the source.

(B) The first performance test for the excess CO burner shall be conducted within 90 days after the date on which the PM-10 emission limitations become applicable to the source. Subsequent semi-annual tests shall be completed within 6 months of the most recent previous test.

(C) If, after conducting semi-annual source tests for the excess CO burner for two consecutive years, the emissions from that source during each of the four previous consecutive semi-annual tests are less than 80% of the mass emission limit, then the frequency of source testing for the control efficiency requirement for the excess CO burner may be reduced to annual testing. The frequency of source testing shall revert to semi-annually if the emissions from any source test on the source are greater than or equal to 80% of the mass emission limit.

(iv) If a source test indicates an exceedence of the emission limit applicable to the source, the owner or operator of the Astaris-Idaho facility shall conduct a performance test of that source within 90 days of the source test showing the exceedence. The schedule for conducting future source tests shall not be affected by this requirement.

(v) The time period for conducting any source test may be extended by a period of up to 90 days provided that:

(A) The owner or operator of the Astaris-Idaho facility submits a written request to the Regional Administrator at least 30 days prior to the expiration of the time period for conducting the test which demonstrates the need for the extension; and

(B) The Regional Administrator approves the request in writing.

(vi) The owner or operator of the Astaris-Idaho facility shall provide the Regional Administrator a proposed test plan at least 30 days in advance of each scheduled source test. If the proposed test plan is unchanged for the next scheduled source test on the source, the owner or operator of the Astaris-Idaho facility shall not be required to resubmit a source test plan. Astaris-

Idaho shall submit a new source test plan to EPA in accordance with this paragraph (e)(1) if the proposed test plan will be different from the immediately preceding source test plan that had been submitted to EPA.

(vii) The owner or operator of the Astaris-Idaho facility shall provide the Regional Administrator at least 30 days prior written notice of any performance test required under this section to afford the Regional Administrator the opportunity to have an observer present. If after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of the Astaris-Idaho facility shall notify the Regional Administrator as soon as possible of any delay in the original test date, either by providing at least 7 days prior notice of the rescheduled date of the performance test or by arranging a rescheduled date with the Regional Administrator by mutual agreement.

(viii)(A) The owner or operator of the Astaris-Idaho facility shall provide, or cause to be provided, performance testing facilities as follows:

(1) Sampling ports adequate for test methods applicable to the source. This includes:

(i) Constructing any new or modified air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by the applicable test methods and procedures; and

(ii) Except with respect to the calciner scrubber stacks (Table 1 of this section, source 9a), providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures.

(2) Safe sampling platforms.

(3) Safe access to sampling platforms.

(4) Utilities for sampling and testing equipment.

(B) A modification to these requirements can be approved with respect a particular source provided that:

(1) The owner or operator of the Astaris-Idaho facility submits a written request to the Regional Administrator which demonstrates the need for the modification; and

(2) The Regional Administrator approves the request in writing.

(ix) During each test run and for at least two hours prior to the test and two hours after the test is completed, the owner or operator of the Astaris-Idaho facility shall monitor and record the parameters specified in paragraphs (e)(2), (e)(3), (e)(4), (e)(5), and (e)(6) of this section, as appropriate, for the source being tested, and shall report the results to EPA as part of the performance test report referred to in paragraph (g)(3)(i)(G) of this section.

(x) The owner or operator of the Astaris-Idaho facility shall conduct a 12 minute visible emission observation using Method 9 of 40 CFR Part 60, appendix A, at least twice during the performance test at an interval of no less than one hour apart, and shall report the results of this observation to EPA as part of the performance test report referred to in paragraph (g)(3)(i)(G) of this section.

(xi) Concurrently with the performance testing, the owner or operator of the Astaris-Idaho facility shall measure the flow rate (throughput to the control device) using Method 2 of 40 CFR Part 60, appendix A, for the calciner scrubbers (Table 1 of this section, source 9a) and the phos dock Andersen scrubber (Table 1 of this section, source 21a) and shall report the results to EPA as part of the performance test report referred to in paragraph (g)(3)(i)(G) of this section.

(2) The owner or operator of the Astaris-Idaho facility shall install, calibrate, maintain, and operate in accordance with the manufacturer's specifications a device to continuously measure and continuously record the pressure drop across the baghouse for each of the following sources identified in Column II of Table I: east shale baghouse (Table 1 of this section, source 5a), middle shale baghouse (Table 1 of this section, source 6a), west shale baghouse (Table 1 of this section, source 7a), north nodule discharge baghouse (Table 1 of this section, source 12a), north reclaim baghouse (Table 1 of this section, source 13), south nodule discharge baghouse (Table 1 of this section, source 12b), proportioning building-east

nodule baghouse (Table 1 of this section, source 15a), proportioning building-west nodule baghouse (Table 1 of this section, source 15b), nodule stockpile baghouse (Table 1 of this section, source 16a), dust silo baghouse (Table 1 of this section, source 17a), furnace building-east baghouse (Table 1 of this section, source 18a), furnace building-west baghouse (Table 1 of this section, source 18b), and coke handling baghouse (Table 1 of this section, source 20a).

(i) The devices shall be installed and fully operational no later than 210 days after August 23, 2000.

(ii) Upon EPA approval of the acceptable range of baghouse pressure drop for each source, as provided in paragraph (g)(1) of this section, the owner or operator of the Astaris-Idaho facility shall maintain and operate the source to stay within the approved range. Until EPA approval of the acceptable range of baghouse pressure drop for each source, the owner or operator of the Astaris-Idaho facility shall maintain and operate the source to stay within the proposed range for that source, as provided in paragraph (g)(1) of this section.

(iii) If an excursion from an approved range occurs, the owner or operator of the Astaris-Idaho facility shall immediately upon discovery, but no later than within three hours of discovery, initiate corrective action to bring source operation back within the approved range.

(iv) The owner or operator of the Astaris-Idaho facility shall complete the corrective action as expeditiously as possible.

(3) The owner or operator of the Astaris-Idaho facility shall install, calibrate, maintain, and operate in accordance with the manufacturer's specifications and the bag leak detection guidance a triboelectric monitor to continuously monitor and record the readout of the instrument response for each of the following sources identified in Column II of Table 1 to this section: east shale baghouse (Table 1 of this section, source 5a), middle shale baghouse (Table 1 of this section, source 6a), west shale baghouse (Table 1 of this section, source 7a), north nodule discharge baghouse (Table 1 of this

section, source 12a), south nodule discharge baghouse (Table 1 of this section, source 12b), north reclaim baghouse (Table 1 of this section, source 13), proportioning building-east nodule baghouse (Table 1 of this section, source 15a), proportioning building-west nodule baghouse (Table 1 of this section, source 15b), nodule stockpile baghouse (Table 1 of this section, source 16a), dust silo baghouse (Table 1 of this section, source 17a), furnace building-east baghouse (Table 1 of this section, source 18a), furnace building-west baghouse (Table 1 of this section, source 18b), and coke handling baghouse (Table 1 of this section, source 20a).

(i) The triboelectric monitors shall be installed and fully operational no later than 210 days after August 23, 2000.

(ii) The owner or operator of the Astaris-Idaho facility shall maintain and operate the source to stay within the approved range. For the triboelectric monitors, the "approved range" shall be defined as operating the source so that an "alarm," as defined in and as determined in accordance with the bag leak detection guidance, does not occur.

(iii) If an excursion from an approved range occurs, the owner or operator of the Astaris-Idaho facility shall immediately upon discovery, but no later than within three hours of discovery, initiate corrective action to bring source operation back within the approved range.

(iv) The owner or operator of the Astaris-Idaho facility shall complete the corrective action as expeditiously as possible.

(4) The owner or operator of the Astaris-Idaho facility shall install, calibrate, maintain, and operate in accordance with the manufacturer's specifications, a device to continuously measure and continuously record the pressure drop across the scrubber and the scrubber liquor flowrate for each of the calciner scrubbers (Table 1 of this section, source 9a).

(i) The devices for the calciner scrubbers (Table 1 of this section, source 9a) shall be installed and fully operational on or before December 1, 2000.

(ii) Upon EPA approval of the acceptable range of pressure drop, scrubber liquor flow rate, and scrubber liquor pH for the calciner scrubbers, as provided in paragraph (g)(1) of this section, the owner or operator of the Astaris-Idaho facility shall maintain and operate the source to stay within the approved range. Until EPA approval of the acceptable ranges for each source, the owner or operator of the Astaris-Idaho facility shall maintain and operate the calciner scrubbers to stay within the proposed range for that source, as provided in paragraph (g)(1) of this section.

(iii) If an excursion from an approved range occurs, Astaris-Idaho shall immediately upon discovery, but no later than within three hours of discovery, initiate corrective action to bring calciner scrubber operation back within the approved range.

(iv) The owner or operator of the Astaris-Idaho facility shall complete the corrective action as expeditiously as possible.

(5) The owner or operator of the Astaris-Idaho facility shall install, calibrate, maintain, and operate in accordance with the manufacturer's specifications, a device to continuously measure and continuously record the pressure drop across the scrubber for each of the following sources identified in Column II of Table 1 to this section: furnaces #1, #2, #3 and #4—Medusa-Andersen scrubbers (Table 1 of this section, sources 18d, 18e, 18f and 18g), phos dock Andersen scrubber (Table 1 of this section, source 21a), and excess CO burner—Andersen scrubber (Table 1 of this section, source 26b).

(i) The device for furnaces #1, #2, #3 and #4—Medusa-Andersen scrubbers (Table 1 of this section, sources 18d, 18e, 18f and 18g) and the phos dock Andersen scrubber (Table 1 of this section, source 21a) shall be installed and fully operational no later than 210 days after August 23, 2000. The device for the excess CO burner (Table 1 of this section, source 26b) shall be installed and fully operational no later than January 1, 2001.

(ii) Upon EPA approval of the acceptable range of scrubber pressure drop for each source, as provided in paragraph (g)(1) of this section, the owner or oper-

ator of the Astaris-Idaho facility shall maintain and operate the source to stay within the approved range. Until EPA approval of the acceptable ranges of scrubber pressure drop for each source, the owner or operator of the Astaris-Idaho facility shall maintain and operate the source to stay within the proposed range for that source, as provided in paragraph (g)(1) of this section.

(iii) If an excursion from an approved range occurs, the owner or operator of the Astaris-Idaho facility shall immediately upon discovery, but no later than within three hours of discovery, initiate corrective action to bring source operation back within the approved range.

(iv) The owner or operator of the Astaris-Idaho facility shall complete the corrective action as expeditiously as possible.

(6) The owner or operator of the Astaris-Idaho facility shall develop and implement a written plan for monitoring the scrubber water quality (through a parameter(s) such as total dissolved solids, total suspended solids, conductivity, specific gravity, etc) on a daily basis for the following sources: calciner scrubbers (Table 1 of this section, source 9a) and furnaces #1, #2, #3 and #4—Medusa-Andersen scrubbers (Table 1 of this section, sources 18d, 18e, 18f and 18g).

(i) The plan for furnaces #1, #2, #3 and #4—Medusa-Andersen scrubbers (Table 1 of this section, sources 18d, 18e, 18f and 18g) shall be submitted to the Regional Administrator within 180 days after September 22, 2000. The plan for the calciner scrubbers (Table 1 of this section, source 9a) shall be submitted to the Regional Administrator no later than December 1, 2000.

(ii) Upon EPA approval of the acceptable parameter range for water quality for each source, as provided in paragraph (g)(1) of this section, the owner or operator of the Astaris-Idaho facility shall maintain and operate the source to stay within the approved range. Until EPA approval of the acceptable range of water quality for each source, the owner or operator of the Astaris-Idaho facility shall maintain and operate the source to stay within the proposed range for that

source, as provided in paragraph (g)(1) of this section.

(iii) If an excursion from an approved range occurs, the owner or operator of the Astaris-Idaho facility shall immediately upon discovery, but no later than within three hours of discovery, initiate corrective action to bring source operation back within the approved range.

(iv) The owner or operator of the Astaris-Idaho facility shall complete the corrective action as expeditiously as possible.

(7) For each of the pressure relief vents on the furnaces (Table 1 of this section, source 24), Astaris-Idaho shall install, calibrate, maintain, and operate in accordance with the manufacturer's specifications, devices to continuously measure and continuously record the temperature and pressure of gases in the relief vent downstream of the pressure relief valve and the water level of the pressure relief valve.

(i) The devices shall be installed and fully operational no later than 90 days after August 23, 2000.

(ii) A "pressure release" is defined as an excursion of the temperature, pressure, or water level outside of the parameters approved in accordance with paragraph (g)(1) of this section. Until EPA approval of the acceptable range of parameters for the pressure release vents, a "pressure release" is defined as an excursion of the temperature, pressure, or water level outside of the parameters proposed by the owner or operator of the Astaris-Idaho facility for the pressure relief vents, as provided in paragraph (g)(1) of this section.

(iii) The release point on each pressure relief vent shall be maintained at no less than 18 inches of water.

(iv) When a pressure release through a pressure relief vent is detected, the owner or operator of the Astaris-Idaho facility shall, within 30 minutes of the beginning of the pressure release, inspect the pressure relief valve to ensure that it has properly sealed and verify that at least 18 inches of water seal pressure is maintained.

(8) The owner or operator of the Astaris-Idaho facility shall develop and implement a written O&M plan covering all sources of PM-10 at the

Astaris-Idaho facility, including without limitation, each source identified in Column II of Table 1 of this section and uncaptured fugitive and general fugitive emissions of PM-10 from each source.

(i) The purpose of the O&M plan is to ensure each source at the Astaris-Idaho facility will be operated and maintained consistent with good air pollution control practices and procedures for maximizing control efficiency and minimizing emissions at all times, including periods of startup, shutdown, emergency, and malfunction, and to establish procedures for assuring continuous compliance with the emission limitations, work practice requirements, and other requirements of this section.

(ii) The O&M plan shall be submitted to the Regional Administrator within 60 days of September 22, 2000 and shall cover all sources and requirements for which compliance is required 90 days after August 23, 2000.

(A) A revision to the O&M plan covering each source or requirement with a compliance date of more than 60 days after September 22, 2000 shall be submitted at least 60 days before the source is required to comply with the requirement.

(B) The owner or operator of the Astaris-Idaho facility shall review and, as appropriate, update the O&M plan at least annually.

(C) The Regional Administrator may require the owner or operator of the Astaris-Idaho facility to modify the plan if, at any time, the Regional Administrator determines that the O&M plan does not:

(1) Adequately ensure that each source at the Astaris-Idaho facility will be operated and maintained consistent with good air pollution control practices and procedures for maximizing control efficiency and minimizing emissions at all times;

(2) Contain adequate procedures for assuring continuous compliance with the emission limitations, work practice requirements, and other requirements of this section;

(3) Adequately address the topics identified in this paragraph (e)(8); or



(4) Include sufficient mechanisms for ensuring that the O&M plan is being implemented.

(iii) The O&M plan shall address at least the following topics:

(A) Procedures for minimizing fugitive PM<sub>10</sub> emissions from material handling, storage piles, roads, staging areas, parking lots, mechanical processes, and other processes, including but not limited to:

(1) A visual inspection of all material handling, storage piles, roads, staging areas, parking lots, mechanical processes, and other processes at least once each week at a regularly scheduled time. The O&M plan shall include a list of equipment, operations, and storage piles, and what to look for at each source during this regularly scheduled inspection.

(2) A requirement to document the time, date, and results of each visual inspection, including any problems identified and any corrective actions taken.

(3) A requirement to take corrective action as soon as possible but no later than within 48 hours of identification of operations or maintenance problems identified during the visual inspection (unless a shorter time frame is specified by this rule or is warranted by the nature of the problem).

(4) Procedures for the application of dust suppressants to and the sweeping of material from storage piles, roads, staging areas, parking lots, or any open area as appropriate to maintain compliance with applicable emission limitations or work practice requirements. Such procedures shall include the specification of dust suppressants, the application rate, and application frequency, and the frequency of sweeping. Such procedures shall also include the procedures for application of latex to the main shale pile (source 2) and the emergency/contingency raw ore shale pile (source 3) after each reforming of the pile or portion of the pile.

(B) Specifications for parts or elements of control or process equipment needing replacement after some set interval prior to breakdown or malfunction.

(C) Process conditions that indicate need for repair, maintenance or cleaning of control or process equipment,

such as the need to open furnace access ports or holes.

(D) Procedures for the visual inspection of all baghouses, scrubbers, and other control equipment of at least once each week at a regularly scheduled time.

(E) Procedures for the regular maintenance of control equipment, including without limitation, procedures for the rapid identification and replacement of broken or ripped bags for all sources controlled by a baghouse, bag dimensions, bag fabric, air-to-cloth ratio, bag cleaning methods, cleaning type, bag spacing, compartment design, bag replacement schedule, and typical exhaust gas volume.

(F) Procedures that meet or exceed the manufacturer's recommendations for the inspection, maintenance, operation, and calibration of each monitoring device required by this part.

(G) Procedures for the rapid identification and repair of equipment or processes causing a malfunction or emergency and for reducing or minimizing the duration of and emissions resulting from any malfunction or emergency.

(H) Procedures for the training of staff in procedures listed in paragraph (e)(8)(i) of this section.

(I) For each source identified in Column II of Table 2 to this section, additional control measures or other actions to be taken if the emissions from the source exceed the opacity action level identified in Column III of Table 2 to this section.

(9) For each source identified in Column II of Table 1 to this section, the owner or operator of the Astaris-Idaho facility shall conduct a visual observation of each source at least once during each calendar week.

(i) If visible emissions are observed for any period of time during the observation period, the owner or operator of the Astaris-Idaho facility shall immediately, but no later than within 24 hours of discovery, take corrective action to minimize visible emissions from the source. Such actions shall include, but not be limited to, those actions identified in the O&M plan for the source. Immediately upon completion of the corrective action, a certified observer shall conduct a visible

emissions observation of the source using the reference test method for the opacity limit with an observation duration of at least six minutes. If opacity exceeds the opacity action level, the owner or operator of the Astaris-Idaho facility shall take prompt corrective action. This process shall be repeated until opacity returns to below the opacity action level.

(ii) In lieu of the periodic visual observation under this paragraph (e)(9), the owner or operator of the Astaris-Idaho facility may conduct a visible emission observation of any source subject to the requirements of this paragraph (e)(9) using the reference test method for the opacity limit, in which case corrective action must be taken only if opacity exceeds the opacity action level.

(iii) Should, for good cause, the visible emissions reading not be conducted on schedule, the owner or operator of the Astaris-Idaho facility shall record the reason observations were not conducted. Visible emissions observations shall be conducted immediately upon the return of conditions suitable for visible emissions observations.

(iv) If, after conducting weekly visible emissions observations for a given source for more than one year and detecting no visible emissions from that source for 52 consecutive weeks, the frequency of observations may be reduced to monthly. The frequency of observations for such source shall revert to weekly if visible emissions are detected from that source during any monthly observation or at any other time.

(v) With respect to slag handling (Table 1 of this section, source 8a):

(A) Visible emission observations shall be made of the slag tapping area as viewed from the exterior of the furnace building and in the general area of the old slag pits;

(B) For the first three months after the effective date of the opacity limit, the owner or operator of the Astaris-Idaho facility shall conduct a visual observation of this source three days each week and shall submit the results of such observations at the end of the three month time frame. Thereafter, such observations shall be conducted

weekly or as otherwise provided in this paragraph (e)(9).

(10) Except for, as applicable, monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero span adjustments), the owner or operator of the Astaris-Idaho facility shall conduct all monitoring with the monitoring devices required by paragraphs (e)(2), (e)(3), (e)(4), (e)(5), (e)(6), and (e)(7) of this section in continuous operation at all times that the monitored process is in operation. Data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities shall not be used for purposes of this section, including data averages and calculations, or fulfilling a minimum data availability requirement. The owner or operator of the Astaris-Idaho facility shall use data collected during all other periods in assessing the operation of the control device and associated control system.

(11) The minimum data availability requirement for monitoring data pursuant to paragraphs (e)(2), (e)(3), (e)(4), (e)(5), (e)(6), and (e)(7) of this section is 90% on a monthly average basis. Data availability is determined by dividing the time (or number of data points) representing valid data by the time (or number of data points) that the monitored process is in operation.

(12) Nothing in this paragraph (e) shall preclude EPA from requiring any other testing or monitoring pursuant to section 114 of the Clean Air Act.

(f) *Record keeping requirements.* (1) The owner or operator of the Astaris-Idaho facility shall keep records of all monitoring required by this section that include, at a minimum, the following information:

(i) The date, place as defined in this section, and time of the sampling or measurement.

(ii) The dates the analyses were performed.

(iii) The company or entity that performed the analyses.

(iv) The analytical techniques or methods used.

(v) The results of the analyses.

(vi) The operating conditions existing at the time of the sampling or measurement.

(2)(i) The owner or operator of the Astaris-Idaho facility shall keep records of all inspections and all visible emissions observations required by this section or conducted pursuant to the O&M plan, which records shall include the following:

(A) The date, place, and time of the inspection or observation.

(B) The name and title of the person conducting the inspection or observation.

(C) In the case of a visible emission observation, the test method (Method 9 or visual observation), the relevant or specified meteorological conditions, and the results of the observation, including raw data and calculations. In the case of visible emission observations of slag handling (Table 1 of this section, source 8a), the owner or operator of the Astaris-Idaho facility shall also document whether visible emissions emanate from fuming of hot slag from pots or other points in the old slag pit area.

(D) For any corrective action required by this section or the O&M plan or taken in response to a problem identified during an inspection or visible emissions observation required by this section or the O&M plan, the time and date corrective action was initiated and completed and the nature of corrective action taken.

(E) The reason for any monitoring not conducted on schedule.

(ii) With respect to control devices, the requirement of paragraph (f)(2)(i) of this section is satisfied by meeting the requirements of paragraph (f)(11) of this section.

(3) The owner or operator of the Astaris-Idaho facility shall continuously record the parameters specified in paragraphs (e)(2), (e)(3), (e)(4), (e)(5), and (e)(7) of this section, and shall record the parameters specified in paragraphs (e)(6) of this section on the frequency specified in the monitoring plan required under paragraph (e)(6) of this section.

(4) The owner or operator of the Astaris-Idaho facility shall keep records of all excursions from ranges approved under paragraph (e)(3) or

(g)(1) of this section, including without limitation, the measured excursion, time and date of the excursion, duration of the excursion, time and date corrective action was initiated and completed, and nature of corrective action taken.

(5) The owner or operator of the Astaris-Idaho facility shall keep records of:

(i) The time, date, and duration of each pressure release from a furnace pressure relief vent (Table 1 of this section, source 24), the method of detecting the release, the results of the inspection required by paragraph (e)(7) of this section, and any actions taken to ensure resealing, including the time and date of such actions; and

(ii) The time, date, and duration of the steaming and draining of the pressure relief vent drop tank.

(6) The owner or operator of the Astaris-Idaho facility shall keep records of the time, date, and duration of each flaring of the emergency CO flares (Table 1 of this section, source 25) due to an emergency, the method of detecting the emergency, and all corrective action taken in response to the emergency.

(7) Until January 1, 2001, the owner or operator of the Astaris-Idaho facility shall keep records of the date and start/stop time of each mini-flush; the phosphy water flow rate and outlet temperature immediately preceding the start time; whether the operating parameters for conducting the mini-flush set forth in paragraph (c)(5)(ii) of this section were met; and, if the parameters were not met, whether the failure to comply with the parameters was attributable to a malfunction or emergency.

(8) The owner or operator of the Astaris-Idaho facility shall keep records of the application of dust suppressants to all storage piles, roads, staging areas, parking lots, and any other area, including the purchase of dust suppressants, the identification of the surface covered, type of dust suppressant used, the application rate (gallons per square foot), and date of application.

(9) The owner or operator of the Astaris-Idaho facility shall keep records of the frequency of sweeping of

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all roads, staging areas, parking lots, and any other area, including the identification of the surface swept and date and duration of sweeping.

(10) The owner or operator of the Astaris-Idaho facility shall keep the following records with respect to the main shale pile (Table 1 of this section, source 2) and emergency/contingency raw ore shale pile (Table 1 of this section, source 3):

(i) The date and time of each reforming of the pile or portion of the pile.

(ii) The date, time, and quantity of latex applied.

(11) The owner or operator of the Astaris-Idaho facility shall keep a log for each control device of all inspections of and maintenance on the control device, including without limitation the following information:

(i) The date, place, and time of the inspection or maintenance activity.

(ii) The name and title of the person conducting the inspection or maintenance activity.

(iii) The condition of the control device at the time.

(iv) For any corrective action required by this section or the O&M plan or taken in response to a problem identified during an inspection required by this section or the O&M plan, the time and date corrective action was initiated and completed, and the nature of corrective action taken.

(v) A description of, reason for, and the date of all maintenance activities, including without limitation any bag replacements.

(vi) The reason any monitoring was not conducted on schedule, including a description of any monitoring malfunction, and the reason any required data was not collected.

(12) The owner or operator of the Astaris-Idaho facility shall keep the following records:

(i) The Method 9 initial certification and recertification for all individuals conducting visual emissions observations using Method 9 as required by this section.

(ii) Evidence that all individuals conducting visual observations as required by this section meet the training guidelines described in section 1 of Method 22, 40 CFR part 60, appendix A.

(13) The owner or operator of the Astaris-Idaho facility shall keep records on the type and quantity of fuel used in the boilers (Table 1 of this section, source 23), including without limitation the date of any change in the type of fuel used.

(14) The owner or operator of the Astaris-Idaho facility shall keep records of the results of the daily monitoring of the water quality of the scrubber water in the calciner scrubbers (Table 1 of this section, source 9a) and the Medusa-Andersen furnace scrubbers (Table 1 of this section, sources 18d, 18e, 18f, and 18g) as specified in the O&M plan.

(15) The owner or operator of the Astaris-Idaho facility shall keep records of the time, date, and duration of each damper vent opening for the furnace building east and west baghouses (Table 1 of this section, sources 18a and 18b), the reason for the damper vent opening, and all corrective action taken in response to the damper vent opening.

(16) The owner or operator of the Astaris-Idaho facility shall keep a copy of all reports required to be submitted to EPA under paragraph (g) of this section.

(17) All records required to be maintained by this section and records of all required monitoring data and support information shall be maintained on site at the Astaris-Idaho facility in a readily accessible location for a period of at least five years from the date of the monitoring sample, measurement, report, or record.

(i) Such records shall be made available to EPA on request.

(ii) Support information includes all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation.

(g) *Reporting requirements.* (1) The owner or operator of the Astaris-Idaho facility shall submit to EPA, for each of the operating parameters required to be continuously monitored pursuant to paragraphs (e)(2), (e)(4), (e)(5), (e)(6), and (e)(7) of this section, a proposed range of operation, including a proposed averaging period, and documentation demonstrating that operating the source within the proposed

range will assure compliance with applicable emission limitations and work practice requirements of this section.

(i) The proposed parameter ranges shall be submitted within 210 days of August 23, 2000, for all sources except as follows:

(A) A proposed parameter range for the pressure relief vents (Table 1 of this section, source 24) shall be submitted within 90 days of August 23, 2000.

(B) Proposed parameter ranges for the calciner scrubbers (Table 1 of this section, source 9a) and the excess CO burner (Table 1 of this section, source 26b) shall be submitted no later than the date by which the emission limitations become applicable to those sources under this section.

(ii) A parameter range for each source shall be approved by EPA through the issuance of a title V operating permit to the Astaris-Idaho facility, or as a modification thereto. Until EPA approval of the acceptable range for a parameter for a source, the owner or operator of the Astaris-Idaho facility shall maintain and operate the source to stay within the proposed range for that source.

(iii) If EPA determines at any time that the proposed or approved range does not adequately assure compliance with applicable emission limitations and work practice requirements, EPA may request additional information, request that revised parameter ranges and supporting documentation be submitted to EPA for approval, or establish alternative approved parameter ranges through the issuance of a title V operating permit to the Astaris-Idaho facility, or as a modification thereto.

(iv) This requirement to submit proposed parameter ranges is in addition to and separate from any requirement to develop parameter ranges under 40 CFR part 64 (Compliance Assurance Monitoring rule). However, monitoring for any pollutant specific source that meets the design criteria of 40 CFR 64.3 and the submittal requirements of 40 CFR 64.4 may be submitted to meet the requirements of this paragraph (g)(1).

(2) The owner or operator of Astaris-Idaho shall submit to EPA a bi-monthly report covering the preceding two

calendar months (e.g., January-February, March-April). Such report shall be submitted 15 days after the end of each two month period, with the last such report covering the period of November and December 2000. The report shall include the following:

(i) The date and start/stop time of each mini-flush; the phosphy water flow rate and outlet temperature immediately preceding the start time; and a “Yes/No” column indicating whether the operating parameters for conducting the mini-flush set forth in paragraph (c)(5)(ii) of this section were met.

(ii) For any “No” entry, an indication of whether the failure to comply with the parameters was attributable to a malfunction and, if so, the date and time of notification to EPA of the malfunction and a copy of the contemporaneous record described in paragraph (c)(5)(ii) of this section.

(iii) For each month, the total mini-flush time in minutes, the number of operating days for the secondary condenser, and the average minutes per operating day.

(3) The owner or operator of the Astaris-Idaho facility shall submit to EPA a semi-annual report of all monitoring required by this section covering the six month period from January 1 through June 30 and July 1 through December 31 of each year. Such report shall be submitted 30 days after the end of such six month period.

(i) The semiannual report shall:

(A) Identify each time period (including the date, time, and duration) during which a visible emissions observation or PM-10 emissions measurement exceeded the applicable emission limitation and state what actions were taken to address the exceedence. If no action was taken, the report shall state the reason that no action was taken.

(B) Identify each time period (including the date, time, and duration) during which there was an excursion of a monitored parameter from the approved range and state what actions were taken to address the excursion. If no action was taken, the report shall state the reason that no action was taken.

(C) Identify each time period (including the date, time, and duration) during which there was an excursion above the opacity action level and state what actions were taken to address the excursion. If no action was taken, the report shall state the reason that no action was taken.

(D) Identify each time period (including date, time and duration) of each flaring of the emergency CO flares (Table 1 of this section, source 25) due to an emergency and state what actions were taken to address the emergency. If no action was taken, the report shall state the reason that no action was taken.

(E) Identify each time period (including date, time and duration) of each pressure release from a pressure relief vent (Table 1 of this section, source 24) and state what actions were taken to address the pressure release. If no action was taken, the report shall state the reason that no action was taken.

(F) Include a summary of all monitoring required under this section.

(G) Include a copy of the source test report for each performance test conducted in accordance with paragraph (e)(1) of this section.

(H) Describe the status of compliance with this section for the period covered by the semi-annual report, the methods or other means used for determining the compliance status, and whether such methods or means provide continuous or intermittent data.

(I) Such methods or other means shall include, at a minimum, the monitoring, record keeping, and reporting required by this section.

(2) If necessary, the owner or operator of Astaris-Idaho shall also identify any other material information that must be included in the report to comply with section 113(c)(2) of the Clean Air Act, which prohibits making a knowing false certification or omitting material information.

(3) The determination of compliance shall also take into account any excursions from the required parameter ranges reported pursuant to paragraph (g)(3)(i)(B) of this section.

(ii) Each semi-annual report submitted pursuant to this paragraph shall contain certification by a responsible official, as defined in 40 CFR 71.2,

of truth, accuracy and completeness. Such certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the documents are true, accurate, and complete.

(4) The owner or operator of the Astaris-Idaho facility shall notify EPA by telephone or facsimile within 48 hours of the beginning of each flaring of the emergency CO flares (Table 1 of this section, source 25) due to an emergency.

(5)(i) For emissions that continue for more than two hours in excess of the applicable emissions limitation, the owner or operator of the Astaris-Idaho facility shall notify EPA by telephone or facsimile within 48 hours. A written report containing the following information shall be submitted to EPA within ten working days of the occurrence of the excess emissions:

(A) The identity of the stack and/or other source where excess emissions occurred.

(B) The magnitude of the excess emissions expressed in the units of the applicable emissions limitation and the operating data and calculations used in determining the magnitude of the excess emissions.

(C) The time and duration or expected duration of the excess emissions.

(D) The identity of the equipment causing the excess emissions.

(E) The nature and probable cause of such excess emissions.

(F) Any corrective action or preventive measures taken.

(G) The steps taken or being taken to limit excess emissions.

(ii) Compliance with this paragraph is required even in cases where the owner or operator of the Astaris-Idaho facility does not seek to establish an affirmative defense of startup, shutdown, malfunction, or emergency under paragraphs (c)(8) or (c)(9) of this section.

(6) The owner or operator of Astaris-Idaho shall notify EPA if it uses any fuel other than natural gas in the boilers (Table 1 of this section, source 23) within 24 hours of commencing use of such other fuel.

(7) All reports and notices submitted under this section shall be submitted to EPA at the addresses set forth below: U.S. Environmental Protection Agency, Region 10, State and Tribal Programs Unit, Re: Astaris-Idaho FIP, Office of Air Quality, OAQ 107, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553-1189, Fax: 206-553-0404.

(8) The owner or operator of the Astaris-Idaho facility shall submit a copy of each report, notice, or other document submitted to EPA under this section contemporaneously to the Shoshone-Bannock Tribes at the following address: Shoshone-Bannock Tribes, Air Quality Program, Land Use Department, P.O. Box 306, Fort Hall, Idaho, 83203, telephone (208) 478-3853; fax (208) 237-9736. The owner or operator of the Astaris-Idaho facility shall also provide contemporaneously to the Tribes notice by telephone in the event notice by telephone is provided to EPA under this section.

(h) *Title V Permit.* (1) Additional monitoring, work practice, record keeping, and reporting requirements may be included in the title V permit for the Astaris-Idaho facility to assure compliance with the requirements of this section.

(2)(i) A requirement of paragraph (e), (f), or (g) of this section may be revised through issuance or renewal of a title V operating permit by EPA to the Astaris-Idaho facility under 40 CFR part 71 or through a significant permit modification thereto, provided that:

(A) Any alternative monitoring, record keeping, or reporting requirements that revise requirements of paragraphs (e), (f), or (g) of this section:

(1) Are sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the requirements of paragraph (c) of this section; and

(2) Provide no less compliance assurance than the requirements of para-

graphs (e), (f), or (g) of this section that the alternative requirements would replace.

(B) In the event the alternative monitoring, record keeping, or reporting requirements are requested by the owner or operator of the Astaris-Idaho facility, Astaris-Idaho's application for its title V operating permit or significant permit modification must include:

(1) The proposed alternative monitoring, record keeping, or reporting permit terms or conditions;

(2) The specific provisions of paragraphs (e), (f), or (g) of this section the owner or operator of the Astaris-Idaho facility is seeking to revise; and

(3) The supporting documentation to establish that the alternative permit terms or conditions meet the requirements of paragraph (h)(2)(i)(A) of this section.

(C) The draft and final title V operating permit or significant permit modification identifies the specific provisions of paragraphs (e), (f), or (g) of this section being revised;

(D) In the event a revision to paragraphs (e), (f), or (g) of this section is accomplished through a significant modification to Astaris-Idaho's title V operating permit, it is accomplished using the significant permit modification procedures of 40 CFR part 71; and

(ii) Upon issuance or renewal of Astaris-Idaho's title V permit or a significant permit modification thereto that revises a requirement of paragraphs (e), (f), or (g) of this section, the revision shall remain in effect as a requirement of this section not withstanding expiration, termination, or revocation of Astaris-Idaho's title V operating permit.

(i) *Compliance schedule.* Except as otherwise provided in this section, the owner or operator of the Astaris-Idaho facility shall comply with the requirements of this section within 90 days of August 23, 2000.

TABLE 1 TO § 49.10711

I Source No.	II Source description	III Emission limitations and work practice requirements	IV Reference test method
1 .....	Railcar unloading of shale (ore) into underground hopper.	Opacity shall not exceed 10% over a 6 minute average.	Method 9.

TABLE 1 TO § 49.10711—Continued

I Source No.	II Source description	III Emission limitations and work practice requirements	IV Reference test method
2 .....	Main shale pile (portion located on Fort Hall Indian Reservation).	Opacity shall not exceed 10% over a 6 minute average.	
3 .....	Emergency/contingency raw ore shale pile.	Latex shall be applied after each reforming of pile or portion of pile. Opacity shall not exceed 10% over a 6 minute average.	Method 9.
4 .....	Stacker and reclaimers .....	Latex shall be applied after each reforming of pile or portion of pile. Opacity shall not exceed 10% over a 6 minute average.	Method 9.
5a .....	East shale baghouse .....	a. Emissions shall not exceed 0.10 lb. PM-10/hr (excluding condensible PM-10). Opacity shall not exceed 10% over a 6 minute average.	a. Methods 201/201A.
5b .....	East shale baghouse building .....	b. Opacity shall not exceed 10% over a 6 minute average from any portion of the building.	Method 9.
6a .....	Middle shale baghouse .....	a. Emissions shall not exceed 0.50 lb. PM-10/hr (excluding condensible PM-10). Opacity shall not exceed 10% over a 6 minute average.	b. Method 9.
6b .....	Middle shale baghouse building ..	b. Opacity shall not exceed 10% over a 6 minute average from any portion of the building.	a. Methods 201/201A.
6c .....	Middle shale baghouse outside capture hood—fugitive emissions.	c. Opacity shall not exceed 10% over a 6 minute average.	Method 9.
7a .....	West shale baghouse .....	a. Emissions shall not exceed 0.50 lb. PM-10/hr (excluding condensible PM-10). Opacity shall not exceed 10% over a 6 minute average.	b. Method 9.
7b .....	West shale baghouse building ....	b. Opacity shall not exceed 10% over a 6 minute average from any portion of the building.	a. Methods 201/201A.
7c .....	West shale baghouse outside capture hood—fugitive emissions.	c. Opacity shall not exceed 10% over a 6 minute average.	Method 9.
8a .....	a. Slag handling: slag pit area and pot rooms.	a. Until November 1, 2000, emissions from the slag pit area and the pot rooms shall be exempt from opacity limitations. Effective November 1, 2000, opacity of emissions in the slag pit area and from pot rooms shall not exceed 10% over a 6 minute average. <i>Exemption:</i> Fuming of molten slag in transport pots during transport are exempt provided the pots remain in the pot room for at least 3 minutes after the flow of molten slag to the pots has ceased. <i>See also 40 CFR 49.10711(c)(4)</i> .....	b. Method 9.
8b .....	b. Recycle material pile .....	b. Opacity shall not exceed 10% over a 6 minute average.	Method 9.
8c .....	c. Dump to slag pile .....	c. Fuming of molten slag during dump to slag pile shall be exempt from opacity limitations.	b. Method 9.
9a .....	Calciners scrubbers .....	Effective December 1, 2000: The calciner scrubbing chain (air pollution control equipment) shall achieve an overall control efficiency <sup>1</sup> of at least 90% for PM-10 (including condensible PM-10) when inlet loadings equal or exceed 0.150 grains per dry standard cubic foot.  The arithmetic average of the emission concentration from the four stacks associated with each calciner shall not exceed 0.0080 grains per dry standard cubic foot PM-10 (excluding condensible PM-10) <sup>2</sup> .  The arithmetic average of the emission concentration from the four stacks associated with each calciner shall not exceed 0.0180 grains per dry standard cubic foot PM-10 (including condensible PM-10) <sup>2</sup> .	Method 5 (all particulate collected shall be counted as PM-10) and Method 202 at the scrubber outlet. Method 201A and Method 202 at the inlet to the scrubber systems. Method 5 (all particulate collected shall be counted as PM-10). Method 5 (all particulate collected shall be counted as PM-10) and Method 202 at the scrubber outlet.



TABLE 1 TO § 49.10711—Continued

I Source No.	II Source description	III Emission limitations and work practice requirements	IV Reference test method
	Calciner scrubbers .....	Total gas flow rate through any one outlet stack shall not exceed 40,800 dry standard cubic feet per minute. The calciner scrubbers shall be exempt from opacity limitations.	Method 2.
9b .....	Calciner traveling grate—fugitive emissions.	b. Opacity shall not exceed 10% over a 6 minute average.	Method 9.
10 .....	Calciner cooler vents .....	Emissions from any one calciner cooler vent shall not exceed 4.40 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	Methods 201/201A.
11 .....	Nodule pile .....	Opacity shall not exceed 20% over a 6 minute average.	Method 9.
12a .....	North nodule discharge baghouse.	a. Emissions shall not exceed 0.20 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	a. Methods 201/201A.
12b .....	South nodule discharge baghouse.	b. Emissions shall not exceed 0.20 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	b. Methods 201/201A.
12c .....	North and south nodule discharge baghouse outside capture hood—fugitive emissions.	c. Opacity shall not exceed 10% over a 6 minute average.	c. Method 9.
13 .....	Nodule reclaim baghouse .....	a. Emissions shall not exceed 0.90 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	Methods 201/201A.
14 .....	Screened shale fines pile adjacent to the West shale building.	Opacity shall not exceed 20% over a 6 minute average.	Method 9.
15a .....	Proportioning building a. East nodule baghouse .....	a. Emissions shall not exceed 0.60 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	a. Methods 201/201A.
15b .....	b. West nodule baghouse .....	b. Emissions shall not exceed 0.30 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	b. Methods 201/201A.
15c .....	c. Proportioning building—fugitive emissions.	c. Opacity shall not exceed 10% over a 6 minute average from any portion of the building.	c. Method 9.
16a .....	Nodule stockpile baghouse .....	a. Emissions shall not exceed 0.30 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	a. Methods 201/201A.
16b .....	Nodule stockpile baghouse outside capture hood—fugitive emissions.	b. Opacity shall not exceed 10% over a 6 minute average.	b. Method 9.
17a .....	Dust silo baghouse .....	a. Emissions shall not exceed 0.150 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	a. Methods 201/201A.
17b .....	Dust silo fugitive emissions and pneumatic dust handling system.	b. Opacity shall not exceed 10% over a 6 minute average from any portion of the dust silo or pneumatic dust handling system.	b. Method 9.
18a .....	Furnace building a. East baghouse .....	a. Emissions shall not exceed 0.80 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	a. Methods 201/201A.
18b .....	b. West baghouse .....	b. Emissions shall not exceed 0.80 lb. PM–10/hr (excluding condensible PM–10). Opacity shall not exceed 10% over a 6 minute average.	b. Methods 201/201A.
18c .....	c. Furnace building; any emission point except 18a, 18b, 18d, 18e, 18f, or 18g.	c. Until April 1, 2002, opacity shall not exceed 20% over a 6 minute average. Effective April 1, 2002, opacity shall not exceed 10% over a 6 minute average.	c. Method 9.

TABLE 1 TO § 49.10711—Continued

I Source No.	II Source description	III Emission limitations and work practice requirements	IV Reference test method
18d .....	d. Furnace #1 Medusa-Andersen	d, e, f, g: Emissions from any one Medusa-Andersen stack shall not exceed 2.0 lb/hr (excluding condensible PM-10).	d, e, f, g: Methods 201/201A.
18e .....	e. Furnace #2 Medusa-Andersen.	Opacity from any one Medusa-Andersen shall not exceed 10% over a 6 minute average.	Method 9.
18f .....	f. Furnace #3 Medusa-Andersen	Opacity shall not exceed 10% over a 6 minute average from any portion of the building.	Method 9.
18g .....	g. Furnace #4 Medusa-Anderson.	a. Emissions shall not exceed 1.70 lb. PM-10/hr (excluding condensible PM-10).	a. Methods 201/201A.
19 .....	Briquetting building .....	Opacity shall not exceed 10% over a 6 minute average.	Method 9.
20a .....	a. Coke handling baghouse .....	b. Opacity shall not exceed 10% over a 6 minute average from any portion of the coke unloading building.	b. Method 9.
20b .....	b. Coke unloading building .....	Emissions shall not exceed 0.0040 grains per dry standard cubic foot PM-10 (excluding condensible PM-10).	a. Methods 201/201A.
21a .....	a. Phosphorous loading dock (phos dock), Andersen Scrubber.	Flow rate (throughput to the control device) shall not exceed manufacturer's design specification.	Method 2.
21b .....	b. Phosphorous loading dock—fugitive emissions.	Opacity shall not exceed 10% over a 6 minute average.	Method 9.
22 .....	All roads .....	b. Opacity shall not exceed 10% over a 6 minute average.	b. Method 9.
23 .....	Boilers .....	Opacity shall not exceed 20% over a 6 minute average.	Method 9.
24 .....	Pressure relief vents .....	Emissions from any one boiler shall not exceed 0.090 lb. PM-10/hr (excluding condensible PM-10).	Methods 201/201A.
25 .....	Furnace CO emergency flares ....	Opacity from any one boiler shall not exceed 10% over a 6 minute average.	Method 9.
26a .....	a. Existing elevated secondary condenser flare and ground flare.	Opacity shall not exceed 10% over a 6 minute average except:	Method 9.
26b .....	b. Excess CO burner (to be built to replace the existing elevated secondary condenser flare and ground flare).	(i) during a pressure release, as defined in 40 CFR 49.10711(e)(7)(ii), which shall be exempt from opacity limits; and.	Inspection of pressure relief vent and monitoring device
26a .....	a. Existing elevated secondary condenser flare and ground flare.	(ii) during steaming and draining of the pressure relief vent drop tank, which shall occur no more than twice each day, opacity shall not exceed 20% over a 6 minute average.	Method 9.
26b .....	b. Excess CO burner (to be built to replace the existing elevated secondary condenser flare and ground flare).	Pressure release point shall be maintained at 18 inches of water pressure at all times.	Method 9.
26a .....	a. Existing elevated secondary condenser flare and ground flare.	Except during an emergency flaring caused by an emergency as defined in 40 CFR 49.10711(b), opacity shall not exceed 10% over a 6 minute average.	Method 9.
26b .....	b. Excess CO burner (to be built to replace the existing elevated secondary condenser flare and ground flare).	Emissions during an emergency flaring caused by an emergency are exempt from opacity limitations.	Method 9.
26a .....	a. Existing elevated secondary condenser flare and ground flare.	a. See 40 CFR 49.10711(c)(5).	Method 9.
26b .....	b. Excess CO burner (to be built to replace the existing elevated secondary condenser flare and ground flare).	i. Effective January 1, 2001: i. The control efficiency <sup>1</sup> of the air pollution control equipment shall achieve an overall control efficiency of at least 95% for PM-10 (including condensible PM-10) when inlet loadings equal or exceed 0.50 grains per dry standard cubic foot.	i. Methods 201/201A and Method 202 for the inlet (sampling locations to be determined). Method 201/201A (Method 5 if gas stream contains condensed water vapor) and Method 202 for the outlet.
26b .....	b. Excess CO burner (to be built to replace the existing elevated secondary condenser flare and ground flare).	ii. Emissions from the excess CO burner shall not exceed 24.0 lbs PM-10/hr (including condensible PM-10).	ii. Method 201/201A (Method 5 if gas stream contains condensed water vapor) and Method 202 for the outlet.

TABLE 1 TO § 49.10711—Continued

I Source No.	II Source description	III Emission limitations and work practice requirements	IV Reference test method
		Effective January 1, 2001, opacity shall not exceed 10% over a 6 minute average.	Method 9.

<sup>1</sup>The control efficiency (as a percentage) of the air pollution control equipment shall be determined by the following equation:  

$$CE (\%) = 100 \{ 1 - ([Fho+Bho]/[Fhi+Bhi]) \}$$
  
 Where CE is the control efficiency  
 Fhi is the front half emissions for the inlet  
 Bhi is the back half emissions for the inlet  
 Fho is the sum of the front half emissions from each stack for the outlet  
 Bho is the sum of the back half emissions from each stack for the outlet  
 Inlet and all outlet stacks to be sampled simultaneously for required testing.  
 The individual source tests for the inlet and outlet to the emission control system shall be conducted simultaneously or within 3 hours of each other with the same operating conditions.  
<sup>2</sup>The individual source tests for the four stacks associated with each calciner shall be conducted simultaneously or within 3 hours of each other with the same operating conditions.

TABLE 2 TO § 49.10711

I Source No.	II Source description	III Opacity action level	IV Reference test method
1 .....	Railcar unloading of shale (ore) into underground hopper.	Any visible emissions .....	Visual observation.
2 .....	Main shale pile (portion located on Fort Hall Indian Reservation).	Any visible emissions .....	Visual observation.
3 .....	Emergency/contingency raw ore shale pile.	Any visible emissions .....	Visual observation.
4 .....	Stacker and reclaimer .....	Any visible emissions .....	Visual observation.
5a .....	East shale baghouse .....	a. 5% over a 6 minute average .....	a. Method 9.
5b .....	East shale baghouse building .....	b. Any visible emissions .....	b. Visual observation.
6a .....	Middle shale baghouse .....	a. 5% over a 6 minute average .....	a. Method 9.
6b .....	Middle shale baghouse building .....	b. Any visible emissions .....	b. Visual observation.
6c .....	Middle shale baghouse outside capture hood—fugitive emissions.	c. 5% over a 6 minute average .....	c. Method 9.
7a .....	West shale baghouse .....	a. 5% over a 6 minute average .....	a. Method 9.
7b .....	West shale baghouse building .....	b. Any visible emissions .....	b. Visual observation.
7c .....	West shale baghouse outside capture hood—fugitive emissions.	c. 5% over a 6 minute average .....	c. Method 9.
8a .....	a. Slag handling: slag pit area and pot rooms.	a. Until November 1, 2000, emissions from the slag pit area and the pot rooms shall be exempt from opacity limits and opacity action levels. Effective November 1, 2000, the opacity action level for this source shall be 5% over a 6 minute average. <i>Exemption:</i> Fuming of molten slag in transport pots during transport are exempt from opacity limits and opacity action levels provided the pots remain in the pot room for at least 3 minutes after the flow of molten slag to the pots has ceased.	Method 9.
8b .....	b. Recycle material pile .....	b. Any visible emissions .....	b. Visual observation.
8c .....	c. Dump to slag pile .....	c. Fuming of molten slag during dump to slag pile shall be exempt from opacity limits and opacity action levels.	
9a .....	Calcliner scrubbers .....	a. The calcliner scrubbers shall be exempt from opacity limits and opacity action levels.	
9b .....	Calcliner traveling grate—fugitive emissions.	b. 5% over a 6 minute average.	
10 .....	Calcliner cooler vents .....	5% over a 6 minute average .....	Method 9.
11 .....	Nodule pile .....	10% over a 6 minute average .....	Method 9.
12a .....	North nodule discharge baghouse.	a. 5% over a 6 minute average .....	a. Method 9.
12b .....	South nodule discharge baghouse.	b. 5% over a 6 minute average .....	b. Method 9.
12c .....	North and south nodule discharge baghouse outside capture hood—fugitive emissions.	c. 5% over a 6 minute average .....	c. Method 9.
13 .....	Nodule reclaim baghouse .....	5% over a 6 minute average .....	Method 9.

TABLE 2 TO § 49.10711—Continued

I Source No.	II Source description	III Opacity action level	IV Reference test method
14 .....	Screened shale fines pile adjacent to the West shale building. Proportioning building.	10% over a 6 minute average .....	Method 9.
15a .....	a. East nodule baghouse .....	a. 5% over a 6 minute average. ....	a. Method 9.
15b .....	b. West nodule baghouse .....	b. 5% over a 6 minute average .....	b. Method 9.
15c .....	c. Proportioning building—fugitive emissions.	c. Any visible emissions .....	c. Visual observation.
16a .....	Nodule stockpile baghouse .....	a. 5% over a 6 minute average .....	a. Method 9.
16b .....	Nodule stockpile baghouse outside capture hood—fugitive emissions.	b. 5% over a 6 minute average .....	b. Method 9.
17a .....	Dust silo baghouse .....	a. 5% over a 6 minute average .....	a. Method 9.
17b .....	Dust silo fugitive emissions and pneumatic dust handling system.	b. Any visible emissions .....	b. Visual observation.
18a .....	Furnace building.		
18b .....	a. East baghouse .....	a. 5% over a 6 minute average .....	a. Method 9.
18c .....	b. West baghouse .....	b. 5% over a 6 minute average .....	b. Method 9.
18c .....	c. Furnace building; any emission point except 18a, 18b, 18d, 18e, 18f, or 18g.	c. Until April 1, 2002, 10% over a 6 minute average.	c. Method 9.
		Effective April 1, 2002, 5% over a 6 minute average.	Method 9.
18d .....	d. Furnace #1 Medusa-Andersen	d, e, f, g: 5% over a 6 minute average .....	d, e, f, g: Method 9.
18e .....	e. Furnace #2 Medusa-Andersen.		
18f .....	f. Furnace #3 Medusa-Andersen.		
18g .....	g. Furnace #4 Medusa-Anderson.		
19 .....	Briquetting building .....	Any visible emissions .....	Visual observation.
20a .....	a. Coke handling baghouse .....	a. 5% over a 6 minute average .....	a. Method 9.
20b .....	b. Coke unloading building .....	b. Any visible emissions .....	b. Visual observation.
21a .....	Phosphorous loading dock (phos dock), Andersen Scrubber.	a. 5% over a 6 minute average .....	Method 9.
21b .....	b. Phosphorous loading dock—fugitive emissions.	b. 5% over a 6 minute average .....	b. Method 9.
22 .....	All roads .....	10% over a 6 minute average .....	Method 9.
23 .....	Boilers .....	5% over a 6 minute average .....	Method 9.
24 .....	Pressure relief vents .....	5% over a 6 minute average .....	Method 9.
25 .....	Furnace CO emergency flares ....	Any visible emissions except during an emergency flaring caused by an emergency as defined in 40 CFR 49.10711(b). Emissions during an emergency flaring caused by an emergency are exempt from opacity limits and opacity action levels.	Visual observation.
26a .....	a. Existing elevated secondary condenser flare and ground flare.	a. Exempt from opacity limits and opacity action levels.	
26b .....	b. Excess CO burner (to be built to replace the elevated secondary condenser flare and ground flare).	5% over a 6 minute average .....	Method 9.

**§§ 49.10712–49.10730 [Reserved]****IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE SILETZ RESERVATION, OREGON**

SOURCE: 70 FR 18126, Apr. 8, 2005, unless otherwise noted.

**§49.10731 Identification of plan.**

This section and §§49.10732 through 49.10760 contain the implementation plan for the Confederated Tribes of the Siletz Reservation. This plan consists

of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Siletz Reservation.

**§49.10732 Approval status.**

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Siletz Reservation.

## § 49.10733

### § 49.10733 Legal authority. [Reserved]

### § 49.10734 Source surveillance. [Reserved]

### § 49.10735 Classification of regions for episode plans.

The air quality control region which encompasses the Siletz Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	III
Sulfur oxides .....	III

### § 49.10736 Contents of implementation plan.

The implementation plan for the Siletz Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10737 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10738 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

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### § 49.10739 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10740 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Siletz Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permit.

### §§ 49.10741–49.10760 [Reserved]

#### IMPLEMENTATION PLAN FOR THE SKOKOMISH INDIAN TRIBE OF THE SKOKOMISH RESERVATION, WASHINGTON

SOURCE: 70 FR 18126, Apr. 8, 2005, unless otherwise noted.

### § 49.10761 Identification of plan.

This section and §§ 49.10762 through 49.10820 contain the implementation plan for the Skokomish Indian Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Skokomish Reservation.

## Environmental Protection Agency

## §49.10821

### § 49.10762 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Skokomish Reservation.

### § 49.10763 Legal authority. [Reserved]

### § 49.10764 Source surveillance. [Reserved]

### § 49.10765 Classification of regions for episode plans.

The air quality control region which encompasses the Skokomish Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	II

### § 49.10766 Contents of implementation plan.

The implementation plan for the Skokomish Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10767 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10768 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10769 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10770 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Skokomish Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10771–49.10820 [Reserved]

IMPLEMENTATION PLAN FOR THE SPOKANE TRIBE OF THE SPOKANE RESERVATION, WASHINGTON

SOURCE: 70 FR 18127, Apr. 8, 2005, unless otherwise noted.

### § 49.10821 Identification of plan.

This section and §§ 49.10822 through 49.10850 contain the implementation

## § 49.10822

plan for the Spokane Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Spokane Reservation.

### § 49.10822 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Spokane Reservation.

### § 49.10823 Legal authority. [Reserved]

### § 49.10824 Source surveillance. [Reserved]

### § 49.10825 Classification of regions for episode plans.

The air quality control region which encompasses the Spokane Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	III

### § 49.10826 Contents of implementation plan.

The implementation plan for the Spokane Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

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(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10827 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10828 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10829 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10830 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Spokane Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10831–49.10850 [Reserved]

IMPLEMENTATION PLAN FOR THE SQUAXIN ISLAND TRIBE OF THE SQUAXIN ISLAND RESERVATION, WASHINGTON

SOURCE: 70 FR 18128, Apr. 8, 2005, unless otherwise noted.

## Environmental Protection Agency

## § 49.10860

### § 49.10851 Identification of plan.

This section and §§ 49.10852 through 49.10880 contain the implementation plan for the Squaxin Island Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Squaxin Island Reservation.

### § 49.10852 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Squaxin Island Reservation.

### § 49.10853 Legal authority. [Reserved]

### § 49.10854 Source surveillance. [Reserved]

### § 49.10855 Classification of regions for episode plans.

The air quality control region which encompasses the Squaxin Island Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM <sub>10</sub> ) .....	II
Sulfur oxides .....	II

### § 49.10856 Contents of implementation plan.

The implementation plan for the Squaxin Island Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10857 EPA-approved Tribal rules and plans. [Reserved]

### § 49.10858 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.10859 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10860 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Squaxin Island Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.
- (k) Section 49.139 Rule for non-Title V operating permits.



**§§ 49.10861–49.10880**

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**§§ 49.10861–49.10880 [Reserved]**

**IMPLEMENTATION PLAN FOR THE  
STILLAGUAMISH TRIBE OF WASHINGTON**

SOURCE: 70 FR 18128, Apr. 8, 2005, unless otherwise noted.

**§ 49.10881 Identification of plan.**

This section and §§ 49.10882 through 49.10920 contain the implementation plan for the Stillaguamish Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Reservation of the Stillaguamish Tribe.

**§ 49.10882 Approval status.**

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Stillaguamish Tribe.

**§ 49.10883 Legal authority. [Reserved]**

**§ 49.10884 Source surveillance. [Reserved]**

**§ 49.10885 Classification of regions for episode plans.**

The air quality control region which encompasses the Reservation of the Stillaguamish Tribe is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	I
Nitrogen dioxide .....	III
Ozone .....	I
Particulate matter (PM10) .....	I
Sulfur oxides .....	IA

**§ 49.10886 Contents of implementation plan.**

The implementation plan for the Reservation of the Stillaguamish Tribe consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

**§ 49.10887 EPA-approved Tribal rules and plans. [Reserved]**

**§ 49.10888 Permits to construct.**

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

**§ 49.10889 Permits to operate.**

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

**§ 49.10890 Federally-promulgated regulations and Federal implementation plans.**

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Stillaguamish Tribe:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.
- (j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

## Environmental Protection Agency

## §49.10930

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10891–49.10920 [Reserved]

#### IMPLEMENTATION PLAN FOR THE SUQUAMISH INDIAN TRIBE OF THE PORT MADISON RESERVATION, WASHINGTON

SOURCE: 70 FR 18129, Apr. 8, 2005, unless otherwise noted.

#### § 49.10921 Identification of plan.

This section and §§49.10922 through 49.10950 contain the implementation plan for the Suquamish Indian Tribe of the Port Madison Reservation. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Port Madison Reservation.

#### § 49.10922 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Port Madison Reservation.

#### § 49.10923 Legal authority. [Reserved]

#### § 49.10924 Source surveillance. [Reserved]

#### § 49.10925 Classification of regions for episode plans.

The air quality control region which encompasses the Port Madison Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	II

#### § 49.10926 Contents of implementation plan.

The implementation plan for the Port Madison Reservation consists of the following rules, regulations, and measures:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

#### § 49.10927 EPA-approved Tribal rules and plans. [Reserved]

#### § 49.10928 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

#### § 49.10929 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

#### § 49.10930 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Port Madison Reservation:

- (a) Section 49.123 General provisions.
- (b) Section 49.124 Rule for limiting visible emissions.
- (c) Section 49.125 Rule for limiting the emissions of particulate matter.
- (d) Section 49.126 Rule for limiting fugitive particulate matter emissions.
- (e) Section 49.129 Rule for limiting emissions of sulfur dioxide.
- (f) Section 49.130 Rule for limiting sulfur in fuels.
- (g) Section 49.131 General rule for open burning.
- (h) Section 49.135 Rule for emissions detrimental to public health or welfare.
- (i) Section 49.137 Rule for air pollution episodes.

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(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10931–49.10950 [Reserved]

#### IMPLEMENTATION PLAN FOR THE SWINOMISH INDIANS OF THE SWINOMISH RESERVATION, WASHINGTON

SOURCE: 70 FR 18129, Apr. 8, 2005, unless otherwise noted.

#### § 49.10951 Identification of plan.

This section and §§ 49.10952 through 49.10980 contain the implementation plan for the Swinomish Indians. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Swinomish Reservation.

#### § 49.10952 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Swinomish Reservation.

#### § 49.10953 Legal authority. [Reserved]

#### § 49.10954 Source surveillance. [Reserved]

#### § 49.10955 Classification of regions for episode plans.

The air quality control region which encompasses the Swinomish Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM <sub>10</sub> ) .....	II
Sulfur oxides .....	II

#### § 49.10956 Contents of implementation plan.

The implementation plan for the Swinomish Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

#### § 49.10957 EPA-approved Tribal rules and plans. [Reserved]

#### § 49.10958 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

#### § 49.10959 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

#### § 49.10960 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Swinomish Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

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(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10961–49.10980 [Reserved]

#### IMPLEMENTATION PLAN FOR THE TULALIP TRIBES OF THE TULALIP RESERVATION, WASHINGTON

SOURCE: 70 FR 18130, Apr. 8, 2005, unless otherwise noted.

#### § 49.10981 Identification of plan.

This section and §§ 49.10982 through 49.11010 contain the implementation plan for the Tulalip Tribes. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Tulalip Reservation.

#### § 49.10982 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Tulalip Reservation.

#### § 49.10983 Legal authority. [Reserved]

#### § 49.10984 Source surveillance. [Reserved]

#### § 49.10985 Classification of regions for episode plans.

The air quality control region which encompasses the Tulalip Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	I
Nitrogen dioxide .....	III
Ozone .....	I
Particulate matter (PM <sub>10</sub> ) .....	I
Sulfur oxides .....	IA

#### § 49.10986 Contents of implementation plan.

The implementation plan for the Tulalip Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### § 49.10987 EPA-approved Tribal rules and plans. [Reserved]

#### § 49.10988 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

#### § 49.10989 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

### § 49.10990 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Tulalip Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

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(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§ 49.10991–49.11010 [Reserved]

#### IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE UMATILLA RESERVATION, OREGON

SOURCE: 70 FR 18130, Apr. 8, 2005, unless otherwise noted.

#### § 49.11011 Identification of plan.

This section and §§ 49.11012 through 49.11040 contain the implementation plan for the Confederated Tribes of the Umatilla Reservation. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Umatilla Reservation.

#### § 49.11012 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Umatilla Reservation.

#### § 49.11013 Legal authority. [Reserved]

#### § 49.11014 Source surveillance. [Reserved]

#### § 49.11015 Classification of regions for episode plans.

The air quality control region which encompasses the Umatilla Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM <sub>10</sub> ) .....	II
Sulfur oxides .....	III

#### § 49.11016 Contents of implementation plan.

The implementation plan for the Umatilla Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.132 Rule for general open burning permits.

(i) Section 49.133 Rule for agriculture burning permits.

(j) Section 49.134 Rule for forestry and silvicultural burning permits.

(k) Section 49.135 Rule for emissions detrimental to public health or welfare.

(l) Section 49.137 Rule for air pollution episodes.

(m) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(n) Section 49.139 Rule for non-Title V operating permits.

#### § 49.11017 EPA-approved Tribal rules and plans. [Reserved]

#### § 49.11018 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

#### § 49.11019 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

#### § 49.11020 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Umatilla Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

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(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.132 Rule for general open burning permits.

(i) Section 49.133 Rule for agriculture burning permits.

(j) Section 49.134 Rule for forestry and silvicultural burning permits.

(k) Section 49.135 Rule for emissions detrimental to public health or welfare.

(l) Section 49.137 Rule for air pollution episodes.

(m) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(n) Section 49.139 Rule for non-Title V operating permits.

NOTE TO §49.11020: EPA entered into a Partial Delegation of Administrative Authority Agreement with the Confederated Tribes of the Umatilla Indian Reservation on August 21, 2006 for the rules listed in paragraphs (a), (g), (h), (i), (j) and (l) of this section.

[70 FR 18130, Apr. 8, 2005, as amended at 71 FR 60853, Oct. 17, 2006]

### §49.11021 Permits for general open burning, agricultural burning, and forestry and silvicultural burning.

(a) Beginning January 1, 2007, a person must apply for and obtain a permit under §49.132 Rule for general open burning permits.

(b) Beginning January 1, 2007, a person must apply for and obtain approval of a permit under §49.133 Rule for agricultural burning permits.

(c) Beginning January 1, 2007, a person must apply for and obtain approval of a permit under §49.134 Rule for forestry and silvicultural burning permits.

### §§ 49.11022–49.11040 [Reserved]

#### IMPLEMENTATION PLAN FOR THE UPPER SKAGIT INDIAN TRIBE OF WASHINGTON

SOURCE: 70 FR 18131, Apr. 8, 2005, unless otherwise noted.

### §49.11041 Identification of plan.

This section and §§49.11042 through 49.11070 contain the implementation plan for the Upper Skagit Indian Tribe. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Reservation of the Upper Skagit Indian Tribe.

### §49.11042 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Reservation of the Upper Skagit Indian Tribe.

### §49.11043 Legal authority. [Reserved]

### §49.11044 Source surveillance. [Reserved]

### §49.11045 Classification of regions for episode plans.

The air quality control region which encompasses the Reservation of the Upper Skagit Indian Tribe is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	II
Sulfur oxides .....	II

### §49.11046 Contents of implementation plan.

The implementation plan for the Reservation of the Upper Skagit Indian Tribe consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

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(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

## § 49.11047 EPA-approved Tribal rules and plans. [Reserved]

### § 49.11048 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### § 49.11049 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

## § 49.11050 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Reservation of the Upper Skagit Indian Tribe:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits

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## §§ 49.11051–49.11070 [Reserved]

## IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

SOURCE: 70 FR 18132, Apr. 8, 2005, unless otherwise noted.

### § 49.11071 Identification of plan.

This section and §§ 49.11072 through 49.11100 contain the implementation plan for the Confederated Tribes of the Warm Springs Reservation. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Warm Springs Reservation.

### § 49.11072 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Warm Springs Reservation.

### § 49.11073 Legal authority. [Reserved]

### § 49.11074 Source surveillance. [Reserved]

### § 49.11075 Classification of regions for episode plans.

The air quality control region which encompasses the Warm Springs Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM <sub>10</sub> ) .....	II
Sulfur oxides .....	III

### § 49.11076 Contents of implementation plan.

The implementation plan for the Warm Springs Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

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(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §49.11077 EPA-approved Tribal rules and plans. [Reserved]

### §49.11078 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

### §49.11079 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of §49.139.

### §49.11080 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Warm Springs Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

### §§49.11081–49.11100 [Reserved]

### IMPLEMENTATION PLAN FOR THE CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION, WASHINGTON

SOURCE: 70 FR 18132, Apr. 8, 2005, unless otherwise noted.

### §49.11101 Identification of plan.

This section and §§49.11102 through 49.11130 contain the implementation plan for the Confederated Tribes and Bands of the Yakama Nation. This plan consists of a combination of Tribal rules and measures and Federal regulations and measures which apply within the Yakama Reservation.

### §49.11102 Approval status.

There are currently no EPA-approved Tribal rules or measures in the implementation plan for the Yakama Reservation.

### §49.11103 Legal authority. [Reserved]

### §49.11104 Source surveillance. [Reserved]

### §49.11105 Classification of regions for episode plans.

The air quality control region which encompasses the Yakama Reservation is classified as follows for purposes of episode plans:

Pollutant	Classification
Carbon monoxide .....	III
Nitrogen dioxide .....	III
Ozone .....	III
Particulate matter (PM10) .....	I
Sulfur oxides .....	III

### §49.11106 Contents of implementation plan.

The implementation plan for the Yakama Reservation consists of the following rules, regulations, and measures:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.



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(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

## § 49.11107 EPA-approved Tribal rules and plans. [Reserved]

## § 49.11108 Permits to construct.

Permits to construct are required for new major stationary sources and major modifications to existing major stationary sources pursuant to 40 CFR 52.21.

## § 49.11109 Permits to operate.

Permits to operate are required for sources not subject to 40 CFR Part 71 in accordance with the requirements of § 49.139.

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## § 49.11110 Federally-promulgated regulations and Federal implementation plans.

The following regulations are incorporated and made part of the implementation plan for the Yakama Reservation:

(a) Section 49.123 General provisions.

(b) Section 49.124 Rule for limiting visible emissions.

(c) Section 49.125 Rule for limiting the emissions of particulate matter.

(d) Section 49.126 Rule for limiting fugitive particulate matter emissions.

(e) Section 49.129 Rule for limiting emissions of sulfur dioxide.

(f) Section 49.130 Rule for limiting sulfur in fuels.

(g) Section 49.131 General rule for open burning.

(h) Section 49.135 Rule for emissions detrimental to public health or welfare.

(i) Section 49.137 Rule for air pollution episodes.

(j) Section 49.138 Rule for the registration of air pollution sources and the reporting of emissions.

(k) Section 49.139 Rule for non-Title V operating permits.

## §§ 49.11111–49.17810 [Reserved]

## APPENDIX TO SUBPART M OF PART 49—ALPHABETICAL LISTING OF TRIBES AND CORRESPONDING SECTIONS

Indian Tribe	Refer to the following sections in subpart M
Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon .....	§§ 49.9861 to 49.9890
Chehalis Reservation, Washington—Confederated Tribes of the .....	§§ 49.9891 to 49.9920
Coeur d'Alene Tribe of the Coeur d'Alene Reservation, Idaho .....	§§ 49.9921 to 49.9950
Colville Reservation, Washington—Confederated Tribes of the .....	§§ 49.9951 to 49.9980
Coos, Lower Umpqua and Siuslaw Indians of Oregon—Confederated Tribes of the .....	§§ 49.9981 to 49.10010
Coquille Tribe of Oregon .....	§§ 49.10011 to 49.10040
Cow Creek Band of Umpqua Indians of Oregon .....	§§ 49.10041 to 49.10070
Grand Ronde Community of Oregon—Confederated Tribes of the .....	§§ 49.10101 to 49.10130
Hoh Indian Tribe of the Hoh Indian Reservation, Washington .....	§§ 49.10131 to 49.10160
Jamestown S'Klallam Tribe of Washington .....	§§ 49.10161 to 49.10190
Kalispel Indian Community of the Kalispel Reservation, Washington .....	§§ 49.10191 to 49.10220
Klamath Indian Tribe of Oregon .....	§§ 49.10221 to 49.10250
Kootenai Tribe of Idaho .....	§§ 49.10251 to 49.10280
Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington .....	§§ 49.10281 to 49.10310
Lummi Tribe of the Lummi Reservation, Washington .....	§§ 49.10311 to 49.10340
Makah Indian Tribe of the Makah Indian Reservation, Washington .....	§§ 49.10341 to 49.10370
Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington .....	§§ 49.10371 to 49.10400
Nez Perce Tribe of Idaho .....	§§ 49.10401 to 49.10430
Nisqually Indian Tribe of the Nisqually Reservation, Washington .....	§§ 49.10431 to 49.10460
Nooksack Indian Tribe of Washington .....	§§ 49.10461 to 49.10490
Port Gamble Indian Community of the Port Gamble Reservation, Washington .....	§§ 49.10491 to 49.10520
Puyallup Tribe of the Puyallup Reservation, Washington .....	§§ 49.10521 to 49.10550
Quileute Tribe of the Quileute Reservation, Washington .....	§§ 49.10551 to 49.10580
Quinault Tribe of the Quinault Reservation, Washington .....	§§ 49.10581 to 49.10610
Sauk-Suiattle Indian Tribe of Washington .....	§§ 49.10641 to 49.10670

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Indian Tribe	Refer to the following sections in subpart M
Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington .....	§§ 49.10671 to 49.10700
Shoshone-Bannock Tribes of the Fort Hall Indian Reservation of Idaho .....	§§ 49.10701 to 49.10730
Siletz Reservation, Oregon—Confederated Tribes of the .....	§§ 49.10731 to 49.10760
Skokomish Indian Tribe of the Skokomish Reservation, Washington .....	§§ 49.10761 to 49.10790
Spokane Tribe of the Spokane Reservation, Washington .....	§§ 49.10821 to 49.10850
Squaxin Island Tribe of the Squaxin Island Reservation, Washington .....	§§ 49.10851 to 49.10880
Stillaguamish Tribe of Washington .....	§§ 49.10881 to 49.10920
Suquamish Indian Tribe of the Port Madison Reservation, Washington .....	§§ 49.10921 to 49.10950
Swinomish Indians of the Swinomish Reservation, Washington .....	§§ 49.10951 to 49.10980
Tulalip Tribes of the Tulalip Reservation, Washington .....	§§ 49.10981 to 49.11010
Umatilla Reservation, Oregon—Confederated Tribes of the .....	§§ 49.11011 to 49.11040
Upper Skagit Indian Tribe of Washington .....	§§ 49.11041 to 49.11070
Warm Springs Reservation of Oregon—Confederated Tribes of the .....	§§ 49.11071 to 49.11100
Yakama Nation, Washington—Confederated Tribes and Bands of the .....	§§ 49.11101 to 49.11130

[70 FR 18133, Apr. 8, 2005]